

SCOTTISH LAW COMMISSION



THIRTY-FIFTH
ANNUAL REPORT
2000

(SCOT LAW COM No 182)

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

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Mr Patrick S Hodge, QC,
Professor Gerard Maher,
Professor Kenneth G C Reid,
Professor Joseph M Thomson

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The text of this Report is available on the Scottish Law Commission's Website

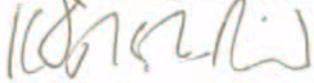
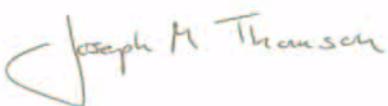
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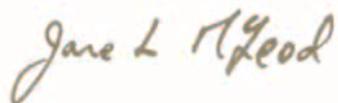
Scottish Law Commission

Report for the year to 31 December 2000

To: Jim Wallace Esq QC MSP
Deputy First Minister and Minister for Justice

In accordance with section 3(3) as read with section 6(2) of the Law Commissions Act 1965 we have the honour to submit to the Scottish Ministers the Thirty-Fifth Annual Report of the Scottish Law Commission.

	BRIAN GILL, <i>Chairman</i>
	PATRICK S HODGE
	GERARD MAHER
	KENNETH G C REID
	JOSEPH M THOMSON



JANE L MCLEOD, *Secretary*
5 February 2001

Commissioners and staff



Back left to right

Mr P S Hodge, QC; Miss K C Slee; Mr N G T Brotchie; Mrs G B Swanson;
The Hon Lord Gill, Chairman; Mrs A V Manners

Front left to right

Prof K G C Reid; Mr J M Dods; Mr I F Ritchie; Miss J E Melville; Dr D I Nichols;
Mrs L Oswald; Miss I L Findlay; Miss A Deighan; Mrs S Sutherland; Miss J L McLeod

Front of stairway left to right

Miss J K Stewart; Prof G Maher; Mrs H C Ryan; Prof J M Thomson; Mrs V A Forbes;
Mrs A D Dryden; Mr J G Neal; Mr A W Duncan; Miss H C McSherry; Mrs L E Young

We are grateful to the staff of Historic Scotland for the use of their office at Longmore House for this photograph.

Photographs courtesy of Andrew Swanston, LBIPP LMPA FRSA.

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Foreword

This has been one of the Commission's most successful years. Despite difficult circumstances, we have produced the best of our work. Our reports on references from the Scottish Ministers have been delivered on schedule.

Throughout the year we have had to cope with a shortage of drafting resources and for most of the year our staff has been significantly below its proper complement. I regret that these problems have disrupted our work on consolidation, which I consider to be vital to the accessibility of the law.

I hope that you too will be pleased with the quality of the work that we have produced in this year. When the problem of resources is finally solved, we will be capable of so much more.

As always, I am grateful to my colleagues and to all of the staff here for their enthusiasm and commitment.



Brian Gill.

BRIAN GILL, *Chairman*

Summary of the year

Introduction

1.1 We are pleased to present our Annual Report for the year to 31 December 2000. This is our first Annual Report covering a calendar year. The change to reporting on a calendar year basis was foreshadowed in our *Thirty-Fourth Annual Report 1998-99* (Scot Law Com No 179), (paras 1.1 to 1.3). It enables us to report more readily on progress with the work under our *Sixth Programme of Law Reform* (Scot Law Com No 176)¹, which set out our programme of work for the five years to the end of 2004. In that Programme we indicated that our medium-term projects were scheduled for completion

during the period up to the end of 2004 and that our Annual Reports would relate the progress made on each of those projects.

1.2 Our aim is to submit each Annual Report to Scottish Ministers by the end of March in the following year.

Publications 2000

1.3 This year we have published five Reports and one Discussion Paper. Two of the Reports and the Discussion Paper were published jointly with the Law Commission. Details of these are given in Table 1.

Table 1: Publications 2000

Title	Citation	Date of publication
Report on the Consolidation of Legislation relating to Sentencing (<i>Joint Report with the Law Commission</i>)	Law Com No 264 Scot Law Com No 175	1 March 2000
Report on Pounding and Warrant Sale	Scot Law Com No 177	14 April 2000
Report on Jurisdictions Under the Agricultural Holdings (Scotland) Acts	Scot Law Com No 178	17 May 2000
Partnership Law (<i>Joint Consultation/Discussion Paper with the Law Commission</i>)	Consultation Paper No 159 Discussion Paper No 111	13 September 2000
Damages Under the Human Rights Act 1998 (<i>Joint Report with the Law Commission</i>)	Law Com No 266 Scot Law Com No 180	3 October 2000
Report on Real Burdens	Scot Law Com No 181	26 October 2000

¹ Published on 17 March 2000.

Implementation of Reports

1.4 In Appendix 1 we provide details of the Reports we have published in 2000 and their implementation.

1.5 We are pleased that the Scottish Parliament has implemented our Reports on Incapable Adults (Scot Law Com No 151)² and Abolition of the Feudal System (Scot Law Com No 168)³. Our Report on Leasehold Casualties (Scot Law Com No 165) is the subject of a Member's Bill which is currently before the Scottish Parliament⁴. A full list of all our Reports with details of their implementation may be found on our Website (www.scotlawcom.gov.uk).

Briefing to Scottish Parliament

1.6 This year we have again provided informal briefing and formal evidence to Committees of the Scottish Parliament. In particular, on 18 January 2000, our then Commissioner, Mr Niall Whitty, and Dr David Nichols, one of our legal staff members, gave evidence to the Local Government Committee on poiding and warrant sales. On 26 January 2000, Dr Nichols also gave evidence to the Health and Community Care Committee on the Adults with Incapacity (Scotland) Bill.

1.7 On 4 October 2000 one of our former Commissioners, Dr Eric Clive, and Mr John Dods, one of our legal staff members, gave evidence to the Justice and Home Affairs Committee on the Leasehold Casualties (Scotland) Bill.

1.8 We welcome these opportunities to provide further information to assist the Parliament in its implementation of our recommendations for law reform.

Achievement of our Law Reform Objectives for 2000

1.9 Our work this year fell into three main categories:

- Projects under our *Sixth Programme of Law Reform*
- Advisory work
- Consolidation and Statute Law Revision

In Appendix 2A of our *Thirty-Fourth Annual Report* we set out our Law Reform Objectives for 2000. These have in the main been met. Occasional slippage in timetable has been largely due to pressure on resources.

• Projects under our *Sixth Programme of Law Reform*

1.10 In our last Annual Report we set the objective of submitting to Scottish Ministers our Report on Real Burdens by the middle of the year. This project originated as part of our *Fifth Programme of Law Reform* (Scot Law Com No 159). Although there was a short delay, we were pleased that in September 2000 we were able to submit this substantial Report.

1.11 We have had to review our objective as regards submission of our Report on Diligence (which will include recommendations on Inhibition, Adjudication, Land Attachment and Money Attachment). We now plan to submit this Report to Scottish Ministers in the spring of 2001.

1.12 Part 2 gives further details of the projects under our *Sixth Programme*.

• Advisory work

1.13 This year we have provided advice to Scottish Ministers in response to a number of references from the Scottish Executive. We were pleased to submit to Scottish Ministers our Report on Poiding and Warrant Sale and our Report on Jurisdictions under the Agricultural Holdings (Scotland) Acts, both on schedule.

1.14 In our last Annual Report we mentioned that we were working with the Law Commission on preparation of a Joint

² The Adults with Incapacity (Scotland) Act received Royal Assent on 9 May 2000.

³ The Abolition of Feudal Tenure Etc. (Scotland) Act received Royal Assent on 9 June 2000.

⁴ A Member's Bill with support from the Scottish Executive was introduced in the Scottish Parliament on 10 May 2000. The Parliament agreed to the general principles of the Bill (stage 1 debate) on 10 January 2001.

Consultation/Discussion Paper on Partnership. We were pleased to publish it in September 2000 inviting comments on our proposals by the middle of January 2001.

1.15 We have worked throughout the year with the Law Commission on a Joint Report on the Third Parties (Rights against Insurers) Act 1930. We anticipate that it will be published by the end of May 2001.

1.16 In our *Sixth Programme* we mentioned that we expected to receive a reference in relation to the law of the foreshore and seabed. We received the reference from Scottish Ministers towards the end of 1999 with a request to submit our Report by the end of 2002.

1.17 Part 3 gives further details of our advisory work.

• Consolidation and Statute Law Revision

1.18 In the course of the year we published a Joint Report with the Law Commission on Consolidation of the Legislation relating to Sentencing. Because of lack of resources we had to suspend work on our own major consolidation project on the legislation relating to salmon and freshwater fisheries. However, we were able to resume this work shortly before the end of the year under review.

1.19 During the year we made excellent progress on statute law revision.

1.20 We discuss these matters in Part 4.

Other activities

1.21 In Part 5 we describe the various ways in which we have promoted our work through

- Links with departments of the UK government and the Scottish Administration, law reform agencies and other organisations
- Seminars
- Visits

Achievement of our Management Objectives for 2000

1.22 In Appendix 2B of our *Thirty-Fourth Annual Report* we set out our Management Objectives for 2000. We have been able to achieve most of them, although in some cases with minor slippage in timescale. We were particularly pleased to launch our Website in September 2000.

1.23 In Part 6 we give further details of this and other developments concerning management of the Commission.

Objectives for 2001

1.24 Our law reform and management objectives for 2001 are set out in Appendix 2.

Projects under our Sixth Programme of Law Reform

Introduction

2.1 In this Part we report on the progress we have made on the projects included in our *Sixth Programme of Law Reform* (Scot Law Com No 176). For ease of reference we have numbered

the items in accordance with the *Sixth Programme*.

2.2 Table 2 lists the objectives for projects under our *Sixth Programme* and the progress we have made during 2000.

Table 2: Projects under our Sixth Programme of Law Reform: objectives and progress 2000

Topic/objective	Progress	References	Notes
Irritancies To issue a Discussion Paper on Irritancies by the autumn of 2001	Preparatory work has started on the Discussion Paper	Medium-term project under the <i>Sixth Programme</i> (paras 2.5 to 2.8)	See paras 2.4 and 2.5
Judicial factors To undertake a review of the legislation relating to judicial factors	Work not yet started	Long-term project under the <i>Sixth Programme</i> (paras 2.9 and 2.10)	See para 2.6
Land registration To undertake a review of the Land Registration (Scotland) Act 1979	Work not yet started	Medium-term project under the <i>Sixth Programme</i> (paras 2.13 to 2.17)	See paras 2.8 to 2.12
Leasehold tenure To issue a Discussion Paper in spring 2001	Discussion Paper to be issued by the end of June 2001	Medium-term project under the <i>Sixth Programme</i> (paras 2.11 and 2.12)	See paras 2.13 to 2.16
Real burdens To submit a Report to Scottish Ministers by mid 2000	Report submitted to Scottish Ministers September 2000 and published October 2000	Long-term project carried forward from the <i>Fifth Programme</i> (Scot Law Com No 159) (para 2.35)	See paras 2.17 to 2.28
Trusts To undertake a review of certain issues relating to express trusts	We intend to commence preliminary work in 2001	Medium-term project under the <i>Sixth Programme</i> (paras 2.25 to 2.34)	See paras 2.30 to 2.32
Diligence To submit a Report on Diligence by the end of 2000	Report to be submitted in spring 2001	Carried forward from the <i>Fifth Programme</i> as a short-term project under the <i>Sixth Programme</i> (paras 2.35 to 2.39)	See paras 1.11 and 2.33 to 2.48

Item No 1: Codification

2.3 In paragraphs 1.32 and 1.33 of our *Sixth Programme* we referred to the work being undertaken by a group at Edinburgh University on a draft Scottish Civil Code. We also mentioned the separate work being done by a small group of lawyers on a draft Criminal Code. We have been taking a close interest in the development of these projects. In November, Professor Maher and Dr David Nichols, a member of our legal staff, attended a consultation conference to discuss the draft Criminal Code. We understand that the draft Code is being amended to take account of comments and discussion at the conference.

Item No 2: Obligations

Commissioner: Professor J M Thomson
Project Manager: Mrs J A Morrison

Irritancies

2.4 In paragraphs 2.5 to 2.8 of our *Sixth Programme* we described our proposals for a study of the law of irritancies, with particular reference to the provisions of sections 4 to 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, the decision of the House of Lords in *CIN Properties v Dollar Land (Cumbernauld) Ltd*⁵ and of the Court of Session in *Aubrey Investments Ltd v DSC (Realisations) Ltd (in receivership)*⁶.

2.5 We have begun the preparatory work for our Discussion Paper and this is progressing satisfactorily. We have established an advisory group to assist us, details of which are given in Appendix 3.

Item No 3: Persons

Commissioner: Professor G Maher
Project Manager: Dr D I Nichols

Judicial factors

2.6 The review and modernisation of the law relating to judicial factors is included in our *Sixth Programme* (at paras 2.9 and 2.10) as a long-term project. Work on this project has not yet started. It is not a priority at present.

Item No 4: Property

Commissioner: Professor K G C Reid
Project Manager: Mr J M Dods

2.7 Our work on property consists of projects on

- land registration
- leasehold tenure
- real burdens

Land Registration

2.8 The Land Register for Scotland was set up under the Land Registration (Scotland) Act 1979 as a replacement for the Register of Sasines, which has been in use since 1617. The new Register is expected to apply to the whole of Scotland by 2003. Under the previous system based on the Register of Sasines, registration did not of itself confer rights in land. The validity of a right depended primarily on the validity of a constitutive deed. The Land Register, however, is a register, not of deeds, but of interests in land. A right is created by being entered on the Register, and all rights so entered are valid even if the initiating deed was not. In general, entries in the Register are guaranteed and the possibility of mistake is covered by an indemnity scheme.

2.9 Experience has shown that there are difficulties with the Land Registration (Scotland) Act 1979. Other difficulties have come to light as a result of substantial litigation in recent years. These difficulties include the relationship between registration and rectification; the grounds on which the Register may be rectified; the meaning of certain key terms used in the 1979 Act such as 'inaccuracy', 'proprietor in possession' and 'carelessness'; the circumstances in which indemnity is payable, and the amount due; and the scope of the rule that the Keeper must reimburse expenditure in claims made against him. Underlying all these detailed questions is a more general one. The 1979 Act lacks a conceptual framework commensurate with the

⁵ 1992 SC (HL)104; 1997 SLT 260; 1998 SC (HL) 90.

⁶ 1999 SC 21.

radical changes that it introduced. The relationship between different provisions is not sufficiently articulated; and the conceptual vacuum makes it difficult to deal with matters that are not expressly provided for in the legislation.

2.10 In carrying forward the review we shall also bear in mind the possibility of early introduction of automated registration of title. We consider it important that any legislation that may result from the review should be fully compatible with that idea.

2.11 Under our *Sixth Programme* (paras 2.13 to 2.17) our objective is to undertake a review of the 1979 Act as a medium-term project. The project is intended to be completed by December 2004, when the *Sixth Programme* comes to an end.

2.12 We have not yet been able to start work on this project and are unlikely to do so until the Discussion Papers on Leasehold Conversion and *Sharp v Thomson*⁷ are published in 2001. However we have carried out some preliminary research on the Australian, English and German systems of registration of title which will be available when work does start.

Leasehold tenure

2.13 Long leasehold tenure has many of the characteristics of ownership. Leases for periods such as 999 years are in practice if not in law equivalent to perpetual feus. They were recognised as such by some landlords and many were granted because of restrictions on the power to feu. Ultra-long leasehold tenure can therefore be regarded as a sort of shadow feudal tenure. It suffers from many of the disadvantages of feudal tenure. The hierarchical structure of leases and subleases is needlessly complex. The system is also open to abuse. It allows an inappropriate degree of control by a person who has little or no interest in the land and provides an opportunity to charge money for waivers. In the case of feus the disadvantages were considered sufficient grounds for their conversion into proper ownership (by the Abolition of Feudal Tenure

Etc. (Scotland) Act 2000 from a day to be appointed). It can be argued that the reform of land tenure would be incomplete without the conversion to ownership of ultra-long leases.

2.14 There are other difficulties with long leases. As they are relatively rare and are concentrated within certain geographical areas they can lead to an increase in transaction costs when a property comes to be sold. It may also be difficult to obtain a loan over a property. There are special difficulties with flatted properties where the common law of the tenement presupposes ownership rather than ultra-long lease. There may also be problems in the very long term when such leases come to an end and the tenant loses the property without compensation, including compensation for improvements.

2.15 Under our *Sixth Programme* (paras 2.11 - 2.12) our objective is to consider, as a medium-term project, whether some categories of long lease should be converted to ownership. The project is due to be completed by the end of 2004, when the Programme ends.

2.16 We have made good progress with this project and intend to publish a Discussion Paper by the end of June 2001. The paper will canvass the principle of converting ultra-long leases into ownership. The paper will also consider the question of whether conversion should be extended to shorter leases.

Real burdens

2.17 Our work on real burdens was carried forward from our *Fifth Programme of Law Reform* (Scot Law Com No 159) where it was part of a long-term project for further reforms linked to the abolition of the feudal system (para 2.35).

2.18 Real burdens are conditions imposed in title deeds to regulate the maintenance and use of land and buildings for the benefit of neighbours or communities. They developed in the late eighteenth and early nineteenth centuries in response to the rapid urbanisation which accompanied the industrial revolution. At a time when there was no planning

⁷ 1997 SC (HL) 66. See Part 3.

legislation and the idea of public control over land was in its infancy, real burdens provided a highly effective method of private regulation. Today they continue to perform a useful role. Most properties in Scotland are affected by real burdens to some degree. Similar forms of private regulation are found in other industrialised countries. The law on real burdens is unsatisfactory in many respects and with the abolition of the feudal system and the extinction of many feudal real burdens the time is right for a review of the law.

2.19 Our Report on Real Burdens (Scot Law Com No 181) was submitted to the Scottish Ministers in September 2000 and published in October 2000.

2.20 The present law of real burdens is based on case law, that is to say, on a series of decisions of the courts over a period of some 200 years. The Report identifies four main weaknesses in that law. First, the law is quite often either unclear or over-elaborate. In places it is scarcely workable. Secondly, there is an absence of proper transparency. The Land Register – a public and computerised register – is intended to give as complete a picture as possible of the rights and obligations affecting land. In the case of real burdens, however, the picture is incomplete, for, while real burdens must be registered against the property affected by the burdens, there is no requirement that they be registered also against the (neighbouring) property in which enforcement rights lie. This means that a person can hold enforcement rights without realising it, and so will not take the necessary steps if the burdens come to be breached. Thirdly, it is in any event often unclear, even to the burdened owner, where enforcement rights actually lie. Finally, real burdens can become out of date or unduly restrictive. For the system to work properly, it is necessary to have adequate means of removing burdens from titles. Otherwise owners will be prevented from using their properties in ways which are perfectly reasonable. Under the present law it is often difficult and expensive for burdens to be removed.

2.21 Our Report puts forward a number of recommendations to address these weaknesses. The draft Title Conditions (Scotland) Bill, which would give effect to our recommendations, accompanies the Report.

2.22 The Bill re-states the law of real burdens in a simple and accessible manner; and incorporates a number of improvements of a technical nature.

2.23 It is recommended that where a real burden is created in the future, it should be necessary to identify the property or properties (the 'benefited property') to which enforcement rights are to attach. Transitional rules are recommended for existing real burdens and in particular for cases where enforcement rights may arise by implication. All real burdens would then require to be registered in the Land Register against both the burdened property and the benefited property. In this way proper transparency would be achieved.

2.24 If a real burden is more than 100 years old, it is recommended that the owner of the burdened property should be able to discharge the burden simply by signing and registering an appropriate notice. There would be some exceptions (for example, for burdens concerned with maintenance of common facilities). The notice could, however, be challenged by the owner of the benefited property. A number of other improvements are recommended in the way in which real burdens are discharged.

2.25 At present, real burdens can be discharged, on certain grounds, by application to the Lands Tribunal for Scotland. Recommendations contained in the Report are intended to make this process more straightforward. It is recommended that unopposed applications should be granted as of right; that a fee should be charged for opposing an application; and that awards of expenses should follow success.

2.26 In housing estates, sheltered housing developments and other communities, it is recommended that decisions in relation to management and maintenance should be taken by the owners of a majority of the properties. A majority would be able to vary or discharge a burden, and add to existing burdens or replace them with new ones. In addition, the Bill introduces an off-the-peg management scheme which could be used, if desired, for new housing estates and other developments.

2.27 Other topics touched on by the Bill include servitudes, rights of pre-emption and redemption, the School Sites Act 1841, the effect of compulsory purchase on real burdens and servitudes, and the rules of ranking of standard securities.

2.28 We received valuable assistance from our advisory group on the practical implications of our recommendations. The members are listed in Appendix 3. We are also grateful to the many other people who provided us with information or advice for the purposes of the Report.

Item No 5: Statute Law Revision and Consolidation

2.29 We outline our work on Statute Law Revision and Consolidation in Part 4.

Item No 6: Trusts

Commissioner: Professor J M Thomson
Project Manager: Dr D I Nichols

2.30 In June 1999 we submitted a Joint Report with the Law Commission on Trustees' Powers and Duties (Law Com No 260; Scot Law Com No 172). The Report made recommendations on relaxing the restrictions on investment powers contained in the Trustee Investments Act 1961 in relation to trusts in Scotland, England and Wales. It also made recommendations for reform of other aspects of trust law that applied to England and Wales only. The Trustee Act 2000 passed by the UK Parliament implemented the Report's recommendations as regards trust law and trustees' investment powers but only for England and Wales. The recommendations on trustees' investment powers in Scotland remain unimplemented and await the introduction of a Bill in the Scottish Parliament. We view this situation with some concern as the Trustee Investments Act 1961 was a UK measure and the rules on trustee investments should be no less favourable in Scotland than in the other parts of the United Kingdom.

2.31 Under our *Sixth Programme* (paras 2.25 to 2.34) our objective is to consider, as a medium-term project, a number of other issues covering the law on express trusts. We will start by examining the following issues, which

seem to be the matters on which reform is most urgently needed:

- a review of the powers and duties of trustees;
- whether there should be separate regimes for private trusts and public trusts (in particular charitable trusts); and
- a re-examination of the restrictions on the accumulation of income in the Trusts (Scotland) Act 1961.

Work on these matters is due to be completed by December 2004 when the Programme ends. We intend to undertake some preliminary work on the project during 2001.

2.32 The related question whether judicial factors and curators bonis should be excluded from the scope of the Trusts (Scotland) Acts will be dealt with in our long-term project on the general review of the law relating to judicial factors (see Item 3).

Item No 7: Completion of work on Diligence

Commissioner: Mr N R Whitty
(until 4 February 2000)
thereafter
Professor G Maher

Project Manager: Dr D I Nichols

2.33 Our work on diligence consists of projects on:

- diligence against land - land attachment and inhibition
- attachment orders and money attachment

Land attachment and inhibition

2.34 In October 1998 we published a Discussion Paper on Diligence Against Land (No 107). The main proposals in the Discussion Paper were:

(i) *Land attachment*

2.35 The archaic, expensive and inefficient diligence of adjudication for debt should be replaced by land attachment to enforce

payment of money due under a court decree or other enforceable document. If a charge to pay the sum due was not complied with within the requisite period, the creditor could register in the property registers first a notice of litigiosity prohibiting the debtor from dealing with the land, and later a notice of land attachment. This latter notice would attach the land specified in the notice and secure the creditor's debt. Thereafter the creditor could apply to the sheriff for a warrant to sell the attached land.

2.36 Various protections for debtors were proposed. The sheriff could refuse a warrant if valuable land was being sold for a small debt or if the expenses of sale were likely to exceed the net proceeds recoverable by the creditor. Warrant to sell a dwellinghouse could be delayed for up to a year in order to allow the debtor or other occupant time to find alternative accommodation.

2.37 A bona fide third party who obtains a disposition or security from the debtor should be protected against the registration of a land attachment in the interval between delivery of the deed and its registration. The proposed protection takes the form of a mandatory period of at least 14 days between the creditor's registering the notice of litigiosity and the subsequent notice of land attachment. If an interim search carried out just prior to settlement shows no attacher's notice of litigiosity, the third party purchaser or borrower has at least 14 days in which to register the deed and so obtain a right free from land attachment. Similar protection is proposed for disponees in competition with the debtor's trustee in sequestration or liquidation. These proposals deal with some of the uncertainties stemming from the House of Lords decision in *Sharp v Thomson* (1997 SC (HL) 66).

(ii) *Inhibition*

2.38 Inhibition should no longer give the inhibitor a preference over creditors whose debts were incurred after the inhibition became effective.

2.39 *Atlas Appointments Ltd v Tinsley* (1997 SC 200) shows that in transactions registered in the Register of Sasines a bona fide purchaser may be at risk of reduction from an

undiscovered inhibition. It was proposed that third parties taking a deed from an inhibited person should be protected if they had no actual knowledge of the inhibition and had taken reasonable steps to discover the inhibition. A computer-assisted search of the Register of Inhibitions and Adjudications using an appropriate programme should be regarded as acceptable.

2.40 The paper also invited views on whether, if land attachment were to be introduced, inhibition should be abolished or retained with the reforms that we have described.

Attachment orders and money attachment

2.41 In December 1998 we published our Discussion Paper on Attachment Orders and Money Attachment (No 108). It put forward proposals for two new diligences: attachment orders and money attachment.

2.42 Attachment orders were proposed as a diligence of last resort to replace adjudication in relation to moveable property, such as intellectual property, and unregistrable interests in heritable property. Attachment orders would be available where no other diligence was competent, giving effect to the principle that all the assets of a debtor should be subject to enforcement unless exempted deliberately to protect debtors from hardship. The creditor could apply to the sheriff for an attachment order which would be served on the debtor, thereby attaching the property. Thereafter the creditor could apply to the sheriff for warrant to sell it.

2.43 Money attachment would enable money (i.e. cash, cheques and other negotiable instruments) in the debtor's possession to be made available to creditors in satisfaction of their debts. Officers of court would be authorised to enter the debtor's premises and seize any money or negotiable instruments found there. The creditor would then have to apply to the sheriff for the attached money to be paid over. Various protections for debtors were proposed.

2.44 We received many comments on the proposals in our two Discussion Papers and

intend to submit a single Report dealing with all of these diligence topics.

2.45 Our Report has been delayed, primarily, as a result of the urgent reference by Scottish Ministers on Pounding and Warrant Sale which we received in September 1999 and on which we submitted a Report in March 2000⁸.

2.46 We intend to submit our Report on Diligence in spring 2001. The Report will contain detailed recommendations for the introduction of the new diligences of land attachment and attachment orders and for the reform of the existing diligence of inhibition. In arriving at our recommendations we have had regard to the comments made on the proposition in our Discussion Papers and other developments and have in certain aspects departed from them. Money attachment has to be dealt with in a more general way, as it would be either a separate diligence modelled on attachment and sale of corporeal moveables in the debtor's possession or a part of such an attachment and sale. Until it is clear what procedures, if any, are to replace pouncing and sale as a diligence against corporeal moveables⁹, as we cannot make detailed recommendations for money attachment.

2.47 We have recently decided to submit our Report on Diligence without the usual draft Bill. This is mainly due to the difficulties we have experienced in obtaining drafting resources. It is also due to the fact that the Scottish Executive is to publish a wide-ranging consultation paper on many aspects of diligence in the latter half of 2001. We have concluded that it would be better to submit a Report in time for its recommendations to be taken into account as part of this wider review.

2.48 Our Discussion Paper on Diligence against Land contained proposals to protect a bona fide third party transacting with the debtor. These proposals were advanced to meet the concerns for property and conveyancing law arising from the decision of the House of Lords in *Sharp v Thomson* (1997

SC (HL) 66). On 27 September 2000 we received a reference from the Scottish Ministers on the issues arising out of that case.¹⁰ Much of the discussion of these issues and possible solutions to them will therefore be dealt with in that project rather than in our Report on Diligence.

⁸ Report on Pounding and Warrant Sale (Scot Law Com No 177) published April 2000, see paras 3.23 to 3.25 below for further details.

⁹ The Abolition of Pounding and Warrant Sales (Scotland) Act 2000 was passed on 8 December 2000 and will come into force on 31 December 2002 unless an earlier date is prescribed by the Scottish Ministers.

¹⁰ See paras 3.33 to 3.35 below for further details.

Advisory Work

Introduction

3.1 One of our main functions under section 3 of the Law Commissions Act 1965 is to provide advice and information to government departments, the Scottish Administration and other bodies concerned with law reform at the instance of the UK Government or the Scottish Administration. In some cases our advice is contained in a published report following consultation on a discussion paper. In other cases we provide advice on an informal basis. On occasions we provide advice and information which does not fall within the strict terms of our statutory remit. We do this where we consider that it

would promote the cause of law reform generally.

3.2 We also provide advice informally to the Law Commission to assist its project teams on aspects of Scots law. We regard this as an important part of our statutory responsibilities under section 3(4) of the Law Commissions Act 1965, which requires the Commissions to consult each other in exercising their functions.

3.3 Appendix 2A of our *Thirty-Fourth Annual Report 1998-99* (Scot Law Com No 179) included our objectives for 2000 as regards our advisory work. Table 3 reports on progress made during 2000.¹¹

Table 3: Advisory work: objectives and progress 2000

Topic	Objective	Progress	References	Notes
Partnership	To produce a Joint Consultation/ Discussion Paper, with the Law Commission, to be issued in mid 2000	Joint Consultation/ Discussion Paper published in September 2000	Request for advice from the Department of Trade and Industry	See paras 3.4 to 3.11
Third Parties (Rights against Insurers) Act 1930	To produce a Joint Report with the Law Commission to be published during 2000	Report is still being drafted	Request for advice from the Department of Trade and Industry	See paras 3.12 and 3.13
Jurisdictions Under the Agricultural Holdings (Scotland) Acts	To submit a Report by 31 March 2000	Report submitted in March and published in May 2000	Request for advice from the Scottish Ministers	See paras 3.14 to 3.22
Poinding and Warrant Sale	To submit a Report by April 2000	Report submitted in March and published in April 2000	Request for advice from the Scottish Ministers	See paras 3.23 to 3.25

¹¹ Table 3 includes details of our work on the law of the Foreshore and Seabed, received towards the end of 1999. It also includes work on the joint reference relating to Damages Under the Human Rights Act 1998, received in February 2000. It does not include details of our work on the references relating to *Sharp v Thomson* and the Age of Criminal Responsibility, received in the latter part of 2000. They are included in Appendix 2 as Law Reform Objectives for 2001.

Table 3: Advisory work: objectives and progress 2000 (*continued*)

Topic	Objective	Progress	References	Notes
Review of the law of the Foreshore and Seabed	To publish a Discussion Paper by the early summer of 2001 and a Report by the end of 2002	Discussion Paper on target	Request for advice from the Scottish Ministers	See paras 3.26 to 3.27
Damages under the Human Rights Act 1998	To produce a Joint Report with the Law Commission during 2000	Joint Report published in October 2000	Request for advice from the Scottish Ministers	See paras 3.28 to 3.32

Partnership

Commissioner: Mr P S Hodge, QC

Project Manager: Mrs G B Swanson

3.4 In accordance with the terms of reference given by the Department of Trade and Industry, the Consultation Paper on Partnership Law was published, jointly with the Law Commission, on 13 September 2000. The terms of reference are :

“To carry out a review of partnership law, with particular reference to: independent legal personality; continuity of business irrespective of changes of ownership; simplification of solvent dissolution; a model partnership agreement; and to make recommendations. The review is to be conducted under the present law of partnership, namely the Partnership Act 1890 and the Limited Partnerships Act 1907.”

3.5 The partnership, as a business vehicle, plays an important role in the United Kingdom economy encompassing the full spectrum of business and industry. Three main problems have been identified in the existing law relating to partnerships. The first is the gulf between commercial perception of the partnership as an entity (which continues regardless of changes in membership) and the legal reality. The second is the danger of unnecessary discontinuance of the business caused by dissolution of the partnership when

such dissolution can be avoided. The third is the need to provide a more efficient and cheaper mechanism for the dissolution of a solvent partnership. The Consultation Paper discusses these problems.

3.6 A partnership has no legal personality in English law and, in Scots law, a legal personality which is insufficiently clear as to continuity of the personality. The Consultation Paper proposes that the partnership would become an entity which could enter into contracts, undertake obligations and own property in its own right. Partnerships would have the option of continuity of personality which would involve the partnership continuing as an entity notwithstanding changes in membership. We also consider whether personality should be granted only on registration. Our provisional view is that it should not be dependent on registration because of the administrative burdens which that would involve. The Consultation Paper goes on to consider the introduction of the registered partnership as an option to obtain the additional benefits that registration may offer.

3.7 Instead of dissolution of the whole partnership on a change in membership, the Consultation Paper suggests that it should be possible to dissolve only the relationship between the departing member and the other partners. The latter would then be able to

carry on the business. Any partnership which did not wish to continue in business after the departure of one of its members could enter into an agreement providing for dissolution of the entire partnership.

3.8 The Consultation Paper proposes the creation of a new mechanism for solvent dissolution which would involve the appointment of an individual with full powers to deal with the assets of the partnership as agent for the former partners. The powers would include bringing and defending legal proceedings, selling or transferring property, borrowing against security of partnership property and gathering in and distributing assets.

3.9 We suggest a number of other modernising measures, in relation, for example, to actions to enforce partnership obligations and statutory statements of partners' duties. We also invite views on questions such as improving the availability of information about the membership of a partnership and extending the availability of floating charges.

3.10 The consultation period runs until 12 January 2001. As part of the consultation process, and to assist us throughout this project, an advisory group has been established. The members of the group are listed in Appendix 3. We are grateful to all involved for agreeing to assist us in this way.

3.11 We propose to deal in a separate paper with the law on limited partnerships which is currently contained in the Limited Partnerships Act 1907.

Third Parties (Rights against Insurers) Act 1930

Commissioner: Professor J M Thomson
Project Manager: Mrs G B Swanson

3.12 A further joint project, in which the Law Commission has the major role, is the review of the Third Parties (Rights against Insurers) Act 1930 in the light of the current law and market practices of the insurance industry. The 1930 Act deals with third party claims against an insured person who is or becomes insolvent.

3.13 At paragraph 3.14 of our *Thirty-Fourth Annual Report*, we referred to delay due to various resource problems at the Law Commission. In spite of such problems work is now well advanced and the Commissions intend to publish a Joint Report by the end of May 2001.

Jurisdictions under the Agricultural Holdings (Scotland) Acts

Commissioner: The Hon Lord Gill
Project Manager: Mrs J A Morrison

3.14 In paragraph 3.15 of our *Thirty-Fourth Annual Report*, we described the terms of reference, given to us by the Scottish Ministers for the review of existing procedures for dispute resolution in the law of agricultural holdings.

3.15 Our Report on Jurisdictions under the Agricultural Holdings (Scotland) Acts (Scot Law Com No 178) was submitted to the Scottish Ministers on schedule and published on 17 May 2000. The recommendations made in our Report were adopted by the Scottish Executive and incorporated as Part 5 of their White Paper *Agricultural Holdings – Proposals for Legislation*, published on 17 May 2000.

3.16 In our Report we recommended that the existing system of compulsory arbitration and its statutory procedures should be abolished. However, we recommended the preservation of the parties' right to agree, once a dispute has arisen, that that dispute be resolved by arbitration.

3.17 We also recommended that the jurisdictions under the Agricultural Holdings (Scotland) Acts should be centred on the Land Court as a court of virtually universal jurisdiction in agricultural holdings cases. The Scottish Land Court is ideally suited as the forum in which all judicial functions in agricultural matters could be unified by reason of its expertise in both agriculture and law. Simplification of jurisdictions would ensure faster decision making and reduce the cost to the litigant. The Land Court system would be based in every case on a two-stage procedure, consisting of a first instance decision and only one opportunity of appeal.

3.18 We recommended the replacement of the current requirement for both parties to agree before a dispute can be referred to the Land Court for determination with a provision entitling either party to do so unilaterally. The existing restriction needlessly limits the parties' access to an available resource of high quality justice.

3.19 The extension of the Land Court's jurisdiction would create an opportunity for the introduction of expedited procedures in the court in order to improve the speed and economy of justice. The existing specific statutory jurisdictions of the sheriff court in this area of law would be abolished, removing an unnecessary burden on sheriff court resources.

3.20 We believe that all aspects of agricultural disputes should be capable of being resolved within the same forum. Therefore, we also recommended that the Land Court should have jurisdiction equal with that of the Court of Session and the sheriff court to determine whether or not a landlord/tenant relationship exists in any individual case involving agricultural land. Further the Land Court should have the power to grant any remedy that is required to give effect to the rights of the parties in any matter falling within its jurisdiction.

3.21 In a new role for the Commission, since the publication of our Report, we have been advising the Scottish Executive Rural Affairs Department on their proposals for reform of dispute resolution within the wider context of their review of the law of agricultural holdings. The Commission team has been assisting the Executive Bill team on sections of the Agricultural Holdings Bill which relate to dispute resolution. It is the Executive's intention to publish a draft Bill for public consultation in the summer of 2001, with a view to its introduction in the Scottish Parliament in late autumn 2001.

3.22 We are grateful to all those who have assisted us in this project, and in particular our advisory group, members of which are listed in Appendix 3.

Poining and Warrant Sale

Commissioner: Mr N R Whitty
(until 4 February 2000)
thereafter Professor G Maher

Project Manager: Dr D I Nichols

3.23 In response to a Member's Bill introduced in the Scottish Parliament to abolish poindings and warrant sales, Scottish Ministers requested the Commission in September 1999:

"To reconsider, as a matter of urgency, whether the conclusions, as set out in the Report on Diligence and Debtor Protection (1985) (Scot Law Com No 95) that the diligence of poinding and warrant sale should not be abolished, remain valid. To consider whether there are alternative measures that might replace and be no less effective than this diligence within the existing structure of the diligence system while still protecting the legitimate interests of creditors in the recovery of legally constituted debt and the interests of debtors. To consult relevant interests and have regard to subsequent developments, research and other relevant factors."

3.24 As part of the consultation process in November 1999, we published our Discussion Paper on Poinding and Sale: Effective Enforcement and Debtor Protection (No 110).

3.25 Our Report on Poinding and Warrant Sale (Scot Law Com No 177) was published on schedule on 14 April 2000. The main recommendation was that the diligence of poinding and sale should be radically reformed and made less easily available but should not be completely abolished. The Report recommended that in all cases the diligence should be prohibited unless there were poindable goods of sufficient value to meet the full diligence expenses and reduce the debt itself. We concluded that there were good reasons for retaining the diligence in a commercial context, but major changes were needed when poinding and sale was used in dwellinghouses. Its use in a domestic setting should be confined to those situations where no other diligence was available against the debtor and even then only luxury goods should be poinded and sold. We recommended that the list of articles in section 16(2) of the Debtors

(Scotland) Act 1987 exempt from poinding if reasonably required in the home by debtors and their families, should be widened to include radios, televisions, microwave ovens and telephones. This recommendation has been implemented by regulations.¹² The creditor would have to apply to the sheriff for a special warrant to poind goods in the debtor's dwellinghouse, as the warrant in an extract decree should no longer authorise such diligence. The Report also made several recommendations in relation to time to pay directions and orders. One of them was to raise the maximum level of the debt from £10,000 to £25,000. This recommendation has also been implemented by regulations.¹²

Review of the law of the Foreshore and Seabed

Commissioner: Professor J M Thomson
Project Manager: Mrs J A Morrison

3.26 Towards the end of 1999 we received a reference from Scottish Ministers as follows:

“Taking account of the Land Reform Action Plan, to consider the existing law of the foreshore and seabed, and to advise on possible reforms, with a view to improving consistency and clarity”.

3.27 We are currently preparing a Discussion Paper which we intend to publish by the early summer of 2001. We are therefore on track to publish our Report by 31 December 2002.

Damages under the Human Rights Act 1998

Commissioner: Professor J M Thomson
Project Manager: Mr N Raven

3.28 In February 2000 the Scottish Ministers and the Lord Chancellor respectively requested the Scottish Law Commission and the Law Commission to undertake a joint project with the following terms of reference:

“(1) To carry out a review of the case-law of the European Court of Human Rights in relation to the award of compensation and the level of compensation awarded under article 41 of the Convention and its predecessor Article 50;

(2) In the light of that case-law, to consider the principles of Strasbourg jurisprudence which the courts should take into account when determining whether to award damages, or the amount of the award, under section 8 of the Human Rights Act 1998;

(3) As part of the review at paragraph (1), to identify the Strasbourg jurisprudence in relation to the award of damages that have been granted in respect of the enforceable right to compensation under Article 5(5).”

3.29 The aim of the review was to inform the judiciary, practitioners and public bodies of the Strasbourg jurisprudence and the compensation levels awarded, in readiness for implementation of the Human Rights Act.

3.30 In October 2000 we published with the Law Commission a Joint Report on Damages Under the Human Rights Act 1998 (Law Com No 266; Scot Law Com No 180). The Report contains a comprehensive review of the case law and practice of the Strasbourg Court on the award of damages under the Human Rights Act 1998. Section 8 provides that before a court can award damages, it must be satisfied that the award is necessary to afford just satisfaction to the person in whose favour it is made. This is the test used by the European Court of Human Rights in Strasbourg under article 41 of the Convention. Section 8 provides that the courts in this country must take into account the principles applied by the Strasbourg Court, in deciding whether to award compensation for violation of the Convention, and the amount of any award.

3.31 The practice of the Strasbourg Court differs in some ways from that in the United Kingdom. For example, unlike the English Courts, the Strasbourg Court does not award punitive damages. Conversely, the Strasbourg Court has awarded compensation in relation to some forms of non-pecuniary, or intangible, loss, such as interference in the relationship between parent and child, which have not yet been recognised by the courts in this country.

¹² Debtors (Scotland) Act 1987 Amendment Regulations 2000, SSI 2000/189 with effect from 10 July 2000.

3.32 The Report does not recommend legislation. Instead it provides guidance to courts, practitioners and public bodies in relation to the awarding of damages under the 1998 Act.

Sharp v Thomson

Commissioner: Professor K G C Reid

Project Manager: Mr J M Dods

3.33 On 27 September 2000 the Commission received a request from Scottish Ministers:

“To consider the implications of the decision of the House of Lords in *Sharp v Thomson* 1997 SC (HL) 66 and to make recommendations as to possible reform of the law.”

3.34 In *Sharp v Thomson* the seller of land went into receivership during the sale transaction and before the purchasers’ title was completed by registration. The decision of the House of Lords preferring the purchaser’s claim has given rise to doubts and difficulties. It has since been extended, in the sheriff court, to ordinary insolvency processes. We will review these difficulties as well as a range of possible solutions.

3.35 We intend to produce a Discussion Paper by the end of 2001, and our Report as soon as possible thereafter.

Age of Criminal Responsibility

Commissioner: Professor G Maher

Project Manager: Dr D I Nichols

3.36 On 31 October 2000 we received a reference from the Scottish Ministers:

“To identify the legal issues which are involved in rules fixing an age of criminal responsibility; to consider in the light of contemporary legal doctrines and principles the rule contained in section 41 of the Criminal Procedure (Scotland) Act 1995 that it shall be conclusively presumed that no child under the age of 8 can be guilty of any offence; to identify the legal implications of any change to that rule; and to make any recommendations for reform.”

3.37 We are not to consider any changes to the law on the prosecution of children or the children’s hearing system beyond those required for the purposes of the terms of the reference.

3.38 We intend to produce a Discussion Paper by the end of July 2001 and submit a Report by the end of that year. Some comparative law research has already been done. We intend to seek assistance on certain aspects of the project from experts in the field of criminal procedure and children’s hearings.

Electronic commerce

Commissioner: Mr P S Hodge QC

3.39 Following discussions with the Department of Trade and Industry and the Lord Chancellor’s Department, the Law Commission’s *Seventh Programme of Law Reform* (Law Com No 259, published in July 1999), includes a project to examine certain aspects of electronic commerce.

3.40 The Commission is examining the current law and proposals for domestic and international law reform with a view to assisting the development of domestic proposals and making recommendations for additional reforms necessary to facilitate electronic commerce. Work has focused on the sale of goods and carriage of goods and on associated banking and insurance transactions.

3.41 We have been assisting the Law Commission in relation to the Scottish aspects of this project, which is due for completion in the spring of 2001.

Other references

3.42 Two other possible references are mentioned in our *Sixth Programme* – on the Damages (Scotland) Act 1976 and on Delictual Liability for Psychiatric Injury. We have not received either of these, although we understand that both these references may be made in the early part of 2001.

Consolidation and Statute Law Revision

Introduction

4.1 Consolidation and statute law revision are essential elements in the process of law reform for which the Commission was established. One of our main functions under the Law Commissions Act 1965 is to prepare comprehensive programmes of consolidation and statute law revision and to prepare draft Bills to fulfil the objectives set out in such programmes.

4.2 There have been four such programmes to date: (1966) Scot Law Com No 2; (1973) Scot Law Com No 27; (1978) Scot Law Com No 46; and (1982) Scot Law Com No 71.

4.3 In our *Sixth Programme of Law Reform* (Scot Law Com No 176) paras 2.21 to 2.24 we mentioned that a number of suggestions had been made to us for inclusion in a future programme of consolidation. We have made efforts in recent years to promote a new programme (see our *Thirty-Second Annual Report 1996-97* (Scot Law Com No 161), para 4.6. However, we cannot undertake consolidation of legislation, without support from the appropriate Departments of the Scottish Executive. In our *Thirty-Third Annual Report 1997-98* (Scot Law Com No 167), para 4.2 we reported that departments did not appear to have the resources to support a new programme of consolidation. Unfortunately, due to other pressures upon them, this continues to be the case. For this reason we have not published a formal programme of work on consolidation.

4.4 However, we continue to believe that such a programme would prove useful in co-ordinating the consolidation effort. We shall raise the issue with the Executive to see if there would now be support from the relevant Departments for us to submit a Fifth Programme of Consolidation, for Ministerial approval.

Consolidation

Commissioner: The Hon Lord Gill
Project Manager: Mrs J A Morrison
(to 1 December 2000)
thereafter Mrs S Sutherland

(i) *Consolidation of legislation relating to Sentencing*

4.5 In March 2000, we published a Joint Report with the Law Commission on the Consolidation of Legislation Relating to Sentencing (Law Com No 264, Scot Law Com No 175). The Report contained recommendations that were necessary in order to produce a satisfactory consolidation. Two of the recommendations applied to Scotland.

4.6 The Powers of the Criminal Courts (Sentencing) Bill, which was the subject of the Report, received Royal Assent on 25 May 2000. It consolidates the legislation relating to the powers of the courts in England and Wales to deal with offenders and defaulters and to the treatment of such people. Some of the provisions of the Bill apply to Scotland. These relate to the service and execution of court orders and other cross-border matters.

(ii) *Consolidation of legislation relating to Salmon and Freshwater Fisheries*

4.7 Since our last Annual Report we had suspended our work on consolidation of the legislation relating to salmon and freshwater fisheries in Scotland. This had been due to the pressures of work on the draftsman, Mr Patrick Layden, the Legal Secretary to the Lord Advocate and Mrs Dianne Howieson, formerly a member of our legal staff and now also of the Legal Secretariat, who had agreed to continue their responsibility for this Bill. However, we are pleased that recently Mr Layden has been able to devote some time to preparation of the Bill with a view to its introduction in the Scottish Parliament. Mrs Susan Sutherland, a member of our legal staff who joined us towards the end of the year has taken over the

management of the project and is providing support to the draftsman. We intend to complete this work in 2001.

(iii) Consolidation of legislation relating to Wireless Telegraphy

4.8 We are working with the Law Commission on a joint project to consolidate the Wireless Telegraphy Act 1949. In November we received the first draft of the Bill which had been prepared by the Law Commission for consideration.

Statute Law Revision

Commissioner: The Hon Lord Gill
Project Manager: Mrs J A Morrison
 (to 1 December 2000)
 thereafter Mrs S Sutherland

4.9 Statute law revision is the process by which obsolete legislation is removed from the statute book. Our work on statute law revision is continuous. We undertake that work in close co-operation with the Law Commission. From time to time it culminates in a Joint Report to which is annexed a draft Statute Law (Repeals) Bill.

4.10 Prior to 1 July 1999, such Bills were presented to the Westminster Parliament by the Lord Chancellor and the Lord Advocate. The Bills were subject to expedited Parliamentary procedure and were taken through the Parliament by the legal staff of the Law Commissions.

4.11 Following devolution, aspects of future Statute Law (Repeals) Bills which are within the devolved competence of the Scottish Parliament, will be considered by the Scottish Parliament using expedited procedure under the Parliament's Standing Orders. It is expected that there will be a separate Scottish Statute Law (Repeals) Bill dealing with matters within the legislative competence of the Scottish Parliament. We await confirmation of the Scottish Executive's requirements for publication of the first Scottish Report on statute law revision.

4.12 Joint reports with the Law Commission will continue to deal with statute law revision

in relation to United Kingdom and Great Britain legislation. This year we have continued our work on identifying provisions for inclusion in the Seventeenth Report on statute law revision. The Bill annexed to the Report will be presented to the Westminster Parliament. The aim is for the Report to be published during 2002 or 2003.

4.13 In addition to providing advice to the Law Commission's project team on the Scots law aspects of their Great Britain and United Kingdom statute law revision programme, we are maintaining our focus on rationalisation of Scottish local legislation. By December 2000 we had examined approximately 107 Scottish local Acts and 17 Public General Acts of local application in Scotland, with a view to recommending them for repeal. As part of this project, we have recently commenced a review of all extant local legislation in connection with the supply of water.

4.14 In our last Annual Report we reported that we intended to review the legislation promoted by the former Glasgow Corporation, which was repealed in general terms by the Local Government (Scotland) Act 1973, with a view to explicit repeal of the provisions by subordinate legislation. We intend to proceed with this project as soon as other priorities allow.

Promoting Law Reform

Introduction

5.1 It is vital to our work that we maintain links with other law reform agencies and those who have an interest in law reform.

5.2 We maintain close links with the Scottish Administration, the United Kingdom government departments and their agencies. We also maintain close links in the United Kingdom and elsewhere with law reform agencies, legal and other societies and organisations and with universities.

5.3 We hold meetings from time to time with representatives of the main legal institutions concerned with law reform in Scotland, for example the Law Society of Scotland, the Faculty of Advocates, the Society of Public Teachers of Law and the Faculties of Law of the Universities.

5.4 Where resources permit, Commissioners and legal staff are encouraged to make their expertise available to other organisations concerned with law reform. From time to time we are pleased to receive visitors to the Commission. We also make visits ourselves to promote an awareness of our work or to discuss particular projects or present papers.

5.5 In the following paragraphs, we outline some of our activities during 2000.

Consultation

5.6 We undertake consultation mainly by issuing Discussion Papers. In the course of a project, we distribute copies of our Discussion Papers as widely as possible. The full text of our Discussion Papers published since September 2000 is available on our Website.¹³

5.7 Another way in which we promote discussion about our proposals is to hold seminars. These are aimed at small well-informed audiences with a view to discussing the issues in depth and seeking their comments on our provisional proposals. We

have found these to be immensely useful to our work.

5.8 We acknowledge that it is often difficult for consultees to find the time to comment on our proposals and we are grateful to them for their contribution to our work.

Website

5.9 Our Website¹³ was launched in September 2000. It enables information about the Commission and our current and future work to be readily available throughout the world. We see this as key to the continuing development of links with other law reform agencies and others interested in law reform. We see the Website as an important means of making the text of our Discussion Papers and Reports available.

International links

5.10 This year, we have continued to make the work of the Commission widely known and to contribute where possible to law reform at the international level.

5.11 On 20 March 2000 the Chairman gave a short address to a delegation of Chinese Judges on the occasion of their visit to the Court of Session and the High Court.

5.12 From 5 to 8 June 2000 the Chairman took part in and presented a paper at a Conference of European Judges in Wustrau, Germany.

5.13 On 8 September 2000 Professor Thomson presented a paper at the International Academy of Matrimonial Lawyers Conference, in Edinburgh.

5.14 On 28 September 2000 Professor Thomson attended the UK/German Judicial Co-operation Conference on Family Law, in Edinburgh.

5.15 From 18 to 20 October 2000, Professor Maher attended and presented a paper at the

¹³ www.scotlawcom.gov.uk

Bregstein Congress on Unjust Enrichment, in Amsterdam.

5.16 On 2 November 2000 Professor Reid attended a conference in Potchefstroom, South Africa and gave a paper on the role of private law in the regulation of land use.

5.17 On 10 November 2000 Professor Reid attended a conference in Maastricht, Netherlands and presented a paper on the abolition of the feudal system.

5.18 From 13 to 17 November 2000 the Chairman was one of the British representatives at the Sino-British Conference on Sentencing, organised by the British Council in Beijing. He delivered papers in Beijing and Shanghai and took part in a seminar at the China University of Political Science and Law in Beijing.

Links with government departments and agencies and the Scottish Administration

5.19 During 2000, the Chairman took part in meetings of the Lord Chancellor's Advisory Committee on Statute Law held in London. The Chairman and members of the staff had meetings with officials of the Justice Department and the Scottish Executive Rural Affairs Department and the Office of the Solicitor to the Scottish Executive.

5.20 On 19 January 2000 the Chairman attended a reception and lunch given by the Secretary of State for Scotland at Dover House, London.

5.21 On 15 February 2000 the Chairman had a meeting with Mr Ross Finnie MSP, Minister for Rural Affairs.

5.22 On 23 March 2000 the Chairman had a meeting with the then First Minister, the late Mr Donald Dewar MSP, and other Ministers at St Andrew's House, Edinburgh.

5.23 On 24 March 2000 the Chairman attended a reception given by the Advocate General, Dr Lynda Clark QC, in Edinburgh.

5.24 On 11 May 2000 Professor Maher attended a Seminar on the Commercial Code

in the Department of Trade and Industry in London.

5.25 On 1 December 2000 Mr Hodge attended a meeting with the Department of Trade and Industry on Partnership Law.

5.26 Professor Thomson represented the Commission at a number of meetings of the Voice of the Child Research Advisory Group, organised by the Scottish Executive Central Research Unit, in Edinburgh.

5.27 Members of our legal staff attended briefing meetings with Ross Finnie, MSP, Minister for Rural Affairs in relation to our work on Jurisdictions under the Agricultural Holdings (Scotland) Acts.

Links with law reform agencies

5.28 We have continued this year to maintain our close links with other law reform agencies in the United Kingdom and elsewhere. We have continued our practice of exchanging copies of our publications with them.

(i) *Law reform agencies in the United Kingdom*

5.29 The Chairman was in regular contact throughout the year with Mr Justice Carnwath, the Chairman of the Law Commission. He also continued his informal links with Mr Justice Girvan, the Chairman of the Law Reform Advisory Committee for Northern Ireland.

5.30 On 17 February 2000 the Commission was host for a joint meeting with the Law Commission, in Edinburgh. This was a most successful meeting at which there was a constructive discussion of current projects and future plans.

5.31 The Secretary and other members of legal staff also had occasional meetings during the year with their counterparts at the Law Commission.

(ii) *Law reform agencies elsewhere*

5.32 From 29 March to 1 April 2000 the Chairman attended and delivered a paper at the 19th Australian Law Reform Agencies Conference in Perth, Western Australia.

5.33 From 15 to 19 May 2000 the Chairman was a guest at the annual general meeting of the American Law Institute in Washington. During his visit he attended drafting meetings on several of the Institute's projects.

5.34 On 7 September 2000 Miss Zubeda Seedat, Commissioner, and Mr William Henegan, the Secretary, of the South African Law Commission visited us, along with Mr Deon Rudman, Director General of the South African Department of Justice. They met the Chairman, Commissioners and Secretary.

5.35 On 24 October 2000 Mrs Marion Brewer, executive officer of the Law Reform Commission of Western Australia, visited the Commission and met with the Chairman and our Secretary.

5.36 On 17 November 2000 Mr Justice Declan Budd, President, and Ms Dara Dowling, Researcher, of the Law Reform Commission of Ireland visited us and met with Mr Hodge, Professor Maher, Professor Reid, Professor Thomson and the Secretary.

Awards

5.37 In October 2000 the Chairman was elected as a member of the American Law Institute. He is the first Chairman of the Commission to have been honoured in this way.

Links with legal and other societies and organisations

5.38 We wish to continue to build on our links with legal and other professional societies and organisations in Scotland. We are always pleased to receive invitations to meet representatives of these bodies and where appropriate to speak to them about our work.

5.39 On 11 February 2000 Professor Maher and Dr Nichols attended the Scottish Sheriff Courts Users Group Conference on Debtors and the Courts, in Glasgow.

5.40 On 14 March 2000 Mr Hodge presented a lecture on Partnership Law Reform to the Association of Partnership Practitioners, in London.

5.41 On 17 March 2000 the Chairman spoke at the annual dinner of the Property Managers' Association in Glasgow.

5.42 On 5 May 2000 the Chairman was guest of the Council of the Law Society of Scotland at their annual dinner in Edinburgh.

5.43 On 12 October 2000 the Chairman delivered a paper at a seminar held by the Expert Witness Institute in London.

5.44 On 25 October 2000 Professor Thomson presented a paper at the Association of Police Lawyers Conference in Tulliallan.

5.45 On 17 November 2000 Professor Thomson represented the Chairman at the British Council Steering Group on Law on Governance Information, in Edinburgh.

5.46 On 11 December 2000 Professor Maher attended the launch of "Directory of Money Advice Services in Scotland" in Glasgow.

5.47 On 19 December 2000 Mr Hodge gave a talk to the Business Law Committee of the Institute of Chartered Accountants of Scotland.

Links with Universities

5.48 We welcome the opportunity to keep in contact with Universities, particularly those in Scotland, on law reform matters. It has been our practice to look to the Scottish University Law Faculties when appointing consultants and legal research staff. We welcome opportunities to meet University staff and students and to participate in academic seminars and conferences.

5.49 We continue to support the British Council European Young Lawyers Programme run by the University of Edinburgh, by offering a place to one of the participants. On 27 April 2000 all the participants visited us and Professor Thomson, Mrs Morrison and Mrs Swanson gave short presentations to them on aspects of the Commission's work.

5.50 On 29 June 2000 the Chairman was a guest at a dinner given by Professor Robert Rennie of the School of Law at Glasgow University.

5.51 On 6 October 2000 Mr Hodge attended a conference on Human Rights at Glasgow University.

5.52 On 20 November 2000 Professor Maher and Dr Nichols attended a Conference on the Draft Criminal Code for Scotland, at the University of Edinburgh.

5.53 Professor Thomson is President of the Society of Public Teachers of Law from 1 October 2000 to 30 September 2001.

Visits to the Commission

5.54 In addition to the visits that we received from representatives of other law reform agencies, we welcomed a number of distinguished visitors in the course of the year.

5.55 On 30 March 2000 Mr Justice Adam of Zimbabwe High Court visited Mr Hodge, Professor Maher and Professor Thomson.

5.56 On 28 June 2000 Dr Oscar Hassenteufel Salazar, the President of the Supreme Court, Sucre, Bolivia, visited the Commission and met with the Chairman and Secretary.

5.57 On 10 July 2000 Mr Geoff Plant, the Opposition Critic for Justice, Human Rights and Intergovernmental Affairs in British Columbia met Professor Reid and the Secretary.

5.58 On 14 September 2000 Mr Karsten Jungman, Solicitor, of the High Court, Hamburg visited the Commission and met Mr Hodge and Professor Maher.

5.59 On 9 October 2000, Dr Lynda Clark QC, the Advocate General for Scotland and Mr George Duke, the Legal Secretary to the Advocate General visited us and had a meeting with Commissioners and the Secretary.

Presentations by Commissioners and staff

5.60 On 26 April 2000 Dr Nichols attended the Socio-Legal Studies Association's Conference in Belfast and gave a short presentation on the work of the Commission.

5.61 On 19 September 2000 Mr Hodge gave a lecture on Company Law Developments to an Insolvency Discussion Group, in Dunkeld.

5.62 On 16 October 2000 Dr Nichols presented a paper on Human Rights and Law Reform: the Scottish Law Commission's Perspective, at a seminar organised by Central Law Training (Scotland) at Edinburgh.

5.63 On 29 November 2000 Professor Thomson gave the 6th Wilson Lecture at the University of Edinburgh.

5.64 During the course of the year, Professor Reid gave a number of lectures to solicitors on Commission legislation, most notably on the Abolition of Feudal Tenure Etc (Scotland) Act 2000.

The Commission – its structure and management

The Commission

6.1 Commissioners and staff as at 31 December 2000 are as shown in the chart in Appendix 4.

Commissioners

6.2 On 4 February 2000 Mr Niall Whitty retired from the Commission after 28 years' service, initially as a member of the legal staff and latterly as a Commissioner. Mr Whitty's contribution to the work of the Commission was immense. We thank him for that and wish him well in his retirement.

6.3 On 1 February 2000 Professor Joseph Thomson of Glasgow University took up his post as a full-time Commissioner. He is responsible for the current projects on Irritancies, the Foreshore and Seabed, Trusts, and Third Parties (Rights against Insurers) Act 1930. He was also the lead Commissioner in our joint project with the Law Commission on Damages Under the Human Rights Act 1998.

6.4 On 7 February 2000 Professor Gerard Maher formerly of Strathclyde University and now of Edinburgh University, also joined us as a full-time Commissioner. He is responsible for the projects on Diligence, Judicial Factors and Age of Criminal Responsibility.

Secretary of the Commission

6.5 On 30 October, our Secretary, Mr Norman Raven left the Commission on his promotion to Deputy Solicitor and Head of Corporate Legal Services in the Office of the Solicitor to the Scottish Executive. We are grateful to him for his contribution to the work of the Commission and wish him well in his new post. We were pleased to welcome Miss Jane McLeod, a Divisional Solicitor in the Office of the Solicitor to the Scottish Executive, as the new Secretary.

Parliamentary Counsel

6.6 Mr Gregor Clark and Miss Madeleine MacKenzie in the Office of the Scottish

Parliamentary Counsel draft most of our Bills. Until October 2000 Mr Gregor Kowalski drafted our Bills relating to matters reserved to the Westminster Parliament. That drafting is now being undertaken by Mr John Harkness, who is on loan to the UK Government from the Office of the Scottish Parliamentary Counsel. Mr Harkness is based in the Office of Parliamentary Counsel in London.

Legal support to Commissioners

(i) *Government legal service staff*

6.7 Our complement of core legal staff, including our Secretary, remains at 6. Within that number, we have been carrying 1.4 vacancies for a period of 18 months, since May 1999. We have, however, been fortunate in being able to fill the full-time vacancy at the end of November. We hope this will ease the burden on our staff resources generally and enable us to devote more time to statute law revision work.

6.8 The core legal staff – comprising our Secretary, four full-time and one part-time member - are part of the Government Legal Service for Scotland and are on loan from the Office of the Solicitor to the Scottish Executive. They come to the Commission for periods of three to five years, and in a few cases, for longer. They bring to us experience and knowledge of the machinery of government and the legislative process that is invaluable in our work. They play a key role in relation to the management of our law reform projects. We value their contribution highly.

6.9 One extra member of legal staff has been on loan to us from the Office of the Solicitor to the Scottish Executive during 2000, to provide additional resources while the Commission is operating at less than full complement. This member of staff is now on maternity leave.

(ii) *Legal assistants*

6.10 We currently have five legal assistants, four who joined us as law graduates, and one who joined us after completing his traineeship

in private practice. They are employed under fixed-term contracts for periods of up to two years. We have found over the last few years that the skills and ideas of our legal assistants complement the experience and knowledge of the core legal staff and that working in teams they provide invaluable support to our work.

(iii) Trainee solicitors

6.11 We have continued the arrangement with the Office of the Solicitor to the Scottish Executive by which trainee solicitors from the Executive come to us for six months each as part of their training. This year we have had two trainees. This arrangement has been successful. We hope to continue it beyond our existing two year commitment.

(iv) Temporary research assistants

6.12 This year we continued our practice of employing a small number of recent law graduates or law students as temporary research assistants during the summer.

Administrative Staff

6.13 Since our last Annual Report a new administrative staff member has joined us and has been assigned to the team providing general administrative and IT services. We now have a total of ten administrative staff members.

6.14 In October 2000, our Office Manager, Mr Bill Barclay transferred to a post in the Pensions Appeal Tribunals for Scotland. We are grateful to him for his contribution to the running of the office and wish him well in his new post. We were pleased to welcome Mrs Lesley Young who has taken over as Office Manager with responsibility also as IT Systems Manager.

6.15 We are grateful to our Parliamentary Counsel and all our legal and administrative staff, including those who have moved to new posts during the past year, for their contribution to our work.

Scholarship Scheme for law graduates

6.16 In our *Thirty- Fourth Annual Report 1998-99* (Scot Law Com No 179), para 6.11 we mentioned that we had had preliminary

discussions with the law faculties of Aberdeen, Dundee, Edinburgh, Glasgow and Strathclyde Universities with a view to establishing a scholarship scheme for law graduates. Under the proposed scheme graduates would be able to work at the Commission and their time with us would count towards a post graduate qualification. Unfortunately, we have not been able to develop the proposal further due to lack of resources. We shall return to the idea as and when funding becomes available.

Consultancies

6.17 We continue to look for opportunities to make use of consultants in our work. Over the coming year, we hope to enlist expert assistance on our project on the Age of Criminal Responsibility (see paras 3.36 to 3.38). This year we are grateful to Professor Chris Gane of Aberdeen University for his contribution to our work on Damages under the Human Rights Act 1998.

6.18 Mr Scott Wortley of Strathclyde University was employed as a consultant in the latter stages of the real burdens project. Ms Marina Miller developed a computer database to analyse empirical evidence from the Land Register for our forthcoming Discussion Paper on Leasehold Conversion.

Advisory Groups

6.19 Our work this year has been assisted by a number of advisory groups, as detailed in Appendix 3. The practical experience and knowledge of members of the advisory groups are invaluable to us. We are grateful to the members for giving their time to us.

6.20 In light of our current areas of work, our advisory group on Contract Law has now been wound up. Again we express our appreciation to its members for the assistance they have given us over a considerable period.

6.21 We established three new advisory groups this year. The first was to contribute to our project on the Law of the Foreshore and Seabed. The second was to assist our work with the Law Commission on Partnership Law. This group met for the first time on 5 December 2000. The third was to assist our project on Irritancies. The members of our advisory groups are listed in Appendix 3.

Library

6.22 Our library is a vital asset which continues to develop and take advantage of new technology. In addition to the comprehensive collection of printed works, we now have access to several CD-ROM databases of legal information. The availability of internet resources has further broadened the range of information underpinning our research work. Our librarian, Mr Nick Brothie, maintains close links with other law libraries, in particular those of the Scottish Executive, the Faculty of Advocates, the Signet Library, the University of Edinburgh and the Law Commission in London. We welcome reciprocal arrangements with these and other libraries.

Information technology

6.23 Our local area computer network is now fully operational and has greatly improved the speed and efficiency of communication within the office. The system has not been without its problems but, where necessary, we have been able to supplement our growing in-house knowledge of the system with assistance from outside IT support. We are grateful for the help that was given to us in the first few months of the year by IT experts in the Scottish Court Service. From 1 April 2000, we have benefited from the help provided by On-site Support Services (OSS) with whom we signed a two year contract for IT support services. We plan to use the system, to make further improvements to our “Intranet” facilities.

6.24 Internet access has given us world-wide electronic links and has opened up information sources which considerably enhance our research base.

Website

6.25 We were particularly pleased to launch our Website¹⁴ in September 2000. The site has already attracted positive comments and appears to be popular. During the two week period at the beginning of November, it recorded 8115 hits from as far afield as the Cayman Islands and Qatar. The site includes details of Commissioners and staff and

information on our law reform projects. It also includes the full text of Discussion Papers and Reports published since September 2000 and an up to date record of implementation of our recommendations. Where appropriate, we intend to add texts of our earlier publications.

6.26 We have set up a small team to be responsible for keeping the Website up to date and for promoting its development and improvement. We are keen to receive any suggestions for further improving the site’s usefulness.

Office procedures

6.27 Throughout the year we have continued to review our office procedures and organisation in order to improve our efficiency.

6.28 In August we held a one day workshop for all staff at which general management issues were discussed. This has led to an overhaul of our office review teams which have increased in number and have more focused remits. For example, we currently have teams looking at training and development, induction of new staff, communication, publications, information technology and our Website. One of the major strengths of these teams is that they involve both legal and administrative staff working together towards specific goals. All staff have shown considerable commitment and enthusiasm in this. Through the medium of these teams, preparation of a comprehensive induction pack for new Commissioners and staff is well advanced and we are about to assess the implications of a substantial survey of the views of Commissioners and staff on all matters concerning communication within the Commission.

6.29 Some changes in the structure of our general office in the course of the year enabled full implementation of the recommendations which had been made in 1999 by the then Scottish Office Efficiency Unit.

Co-ordination and finance

6.30 The Access to Justice and International Group of the Scottish Executive Justice

¹⁴ www.scotlawcom.gov.uk

Department is responsible for our funding and for the co-ordination of our work with that of the Scottish Executive. We are grateful to Mr David Stewart, Head of the Judicial Appointments and Finance Division and to Mr Peter Beaton, Head of the Civil Justice and International Division and their staff for the advice and support that they have given us on these respective matters throughout the year.

6.31 The various recommendations made in 1999 by the Scottish Executive Audit Unit have all been implemented.

6.32 Appendix 5 sets out our running costs for the years to 31 March 1999 and 31 March 2000. As this is the first Annual Report we have prepared covering a calendar year, we have also set out our running costs for the year to 31 December 2000. We hope that it is helpful for the details of our running costs to correspond with the period covered by our Report. This is the format that we intend to adopt in future Annual Reports.

Scottish Law Commission Reports 2000

Title	Citation	Implementation
Consolidation of Legislation relating to Sentencing <i>(Joint Report with the Law Commission)</i>	Law Com No 264 Scot Law Com No 175	Powers of the Criminal Courts (Sentencing) Act 2000
Report on Pounding and Warrant Sale	Scot Law Com No 177	In part by the Debtors (Scotland) Act 1987 Amendment Regulations 2000 (SSI 2000/189) which increased the maximum level of debt for time to pay directions and orders to £25,000 and widened the range of domestic items exempt from pouncing.
Report on Jurisdictions Under the Agricultural Holdings (Scotland) Acts	Scot Law Com No 178	Draft Bill for consultation to be published by the Scottish Executive in late 2001
Damages under the Human Rights Act 1998 <i>(Joint Report with the Law Commission)</i>	Law Com No 266 Scot Law Com No 180	No legislation required. Report provides guidance to courts and practitioners
Report on Real Burdens	Scot Law Com No 181	SLC Draft Bill not yet implemented

Appendix 2

Objectives for 2001

Law Reform Objectives

Objective	Source	Notes
To publish a Discussion Paper on Irritancies, by the autumn of 2001	<i>Sixth Programme of Law Reform</i> (Scot Law Com No 176), paras 1.32 and 1.33	See paras 2.4 and 2.5
To publish a Discussion Paper on Leasehold Conversion, by the end of June 2001	<i>Sixth Programme of Law Reform</i> , paras 2.11 and 2.12	See paras 2.13 to 2.16
To submit a Report on Diligence (including recommendations on land attachment, and inhibition, attachment orders and money attachment), by spring 2001	<i>Fifth Programme of Law Reform</i> (Scot Law Com No 159), paras 2.7-2.13	See paras 2.33 to 2.48
To publish a Joint Report with the Law Commission on the Third Parties (Rights against Insurers) Act 1930, by the end of May 2001	Request for advice from Scottish Ministers	See paras 3.12 and 3.13
To publish a Discussion Paper on the Foreshore and Seabed, by early summer 2001	Request for advice from Scottish Ministers	See paras 3.26 and 3.27
To publish a Discussion Paper on <i>Sharp v Thomson</i> , by the end of December 2001	Request for advice from Scottish Ministers	See paras 3.33 and 3.34
To publish a Discussion Paper on the Age of Criminal Responsibility, by the end of July 2001; and To publish a Report by the end of December 2001	Request for advice from Scottish Ministers	See paras 3.36 to 3.38
To publish a Report on the Consolidation of Legislation relating to Salmon and Freshwater Fisheries in Scotland by the summer of 2001	See <i>Sixth Programme of Law Reform</i> , para 1.26	See para 4.7

Management objectives

Key area	Objective	Notes
Project planning	To submit the <i>Thirty-Fifth Annual Report</i> by the end of March 2001	See para 1.2
Use of advisory groups	To establish advisory groups as necessary for projects within the <i>Sixth Programme of Law Reform</i> or as required in relation to references received	See paras 6.19 to 6.21
Information technology	<p>(i) To ensure, so far as within the Commission's control, that the Website is updated (a) in relation to new publications, on the date of publication; and (b) in relation to other information, within two weeks of any relevant changes.</p> <p>(ii) To develop and improve our "Intranet" facilities by end of 2001</p>	See paras 6.23 to 6.24
Internal organisation and office procedures	<p>(i) To prepare a training and development strategy by April 2001</p> <p>(ii) To prepare an induction pack for new Commissioners and staff by May 2001</p> <p>(iii) To re-theme the administrative files and prepare a database of them by the end of 2001</p> <p>(iv) To implement a scheme for the recycling of wastepaper by mid 2001</p>	See paras 6.27 and 6.28

Advisory groups

Projects under our *Sixth Programme of Law Reform* (Scot Law Com No 176)

Item No1: Obligations: Advisory Group on Irritancies

Mr Stephen Giusti	Solicitor, Glasgow
Mr Peter McCormack	Faculty of Advocates
Mr Philip Rodney	Solicitor, Glasgow
Mr David Smith	Solicitor, Edinburgh
Mrs Judith A Morrison (Secretary)	Scottish Law Commission

Item No 4: Property: Advisory Group on Real Burdens

Mr Stewart Brymer	Solicitor, Dundee
Mr Ian Davis	Registers of Scotland
Mr Bruce A Merchant	Solicitor, Inverness
Professor Roderick Paisley	University of Aberdeen
Mr William Rankin	Registers of Scotland
Professor Robert Rennie	University of Glasgow
Mr Roy G Shearer	Solicitor, Edinburgh
Professor John H Sinclair	University of Strathclyde
Mr Campbell White	Solicitor, Glasgow
Mr John M Dods (Secretary)	Scottish Law Commission

Advisory Work

Partnership Law: Advisory Group on Partnership Law

Mr R Craig Connal	Solicitor, Glasgow
Professor George L Gretton	University of Edinburgh
Mr David Guild	Faculty of Advocates
Mr William H Holligan	Solicitor, Edinburgh
Mr David B Sinton	Chartered Accountant, Edinburgh
Mr Ian M Stubbs	Solicitor, Glasgow
Mr Campbell White	Solicitor, Glasgow
Mr David S Williamson	Solicitor, Edinburgh
Mrs Gillian B Swanson (Secretary)	Scottish Law Commission

Agricultural Holdings: Advisory Group on Jurisdictions under the Agricultural Holdings (Scotland) Acts

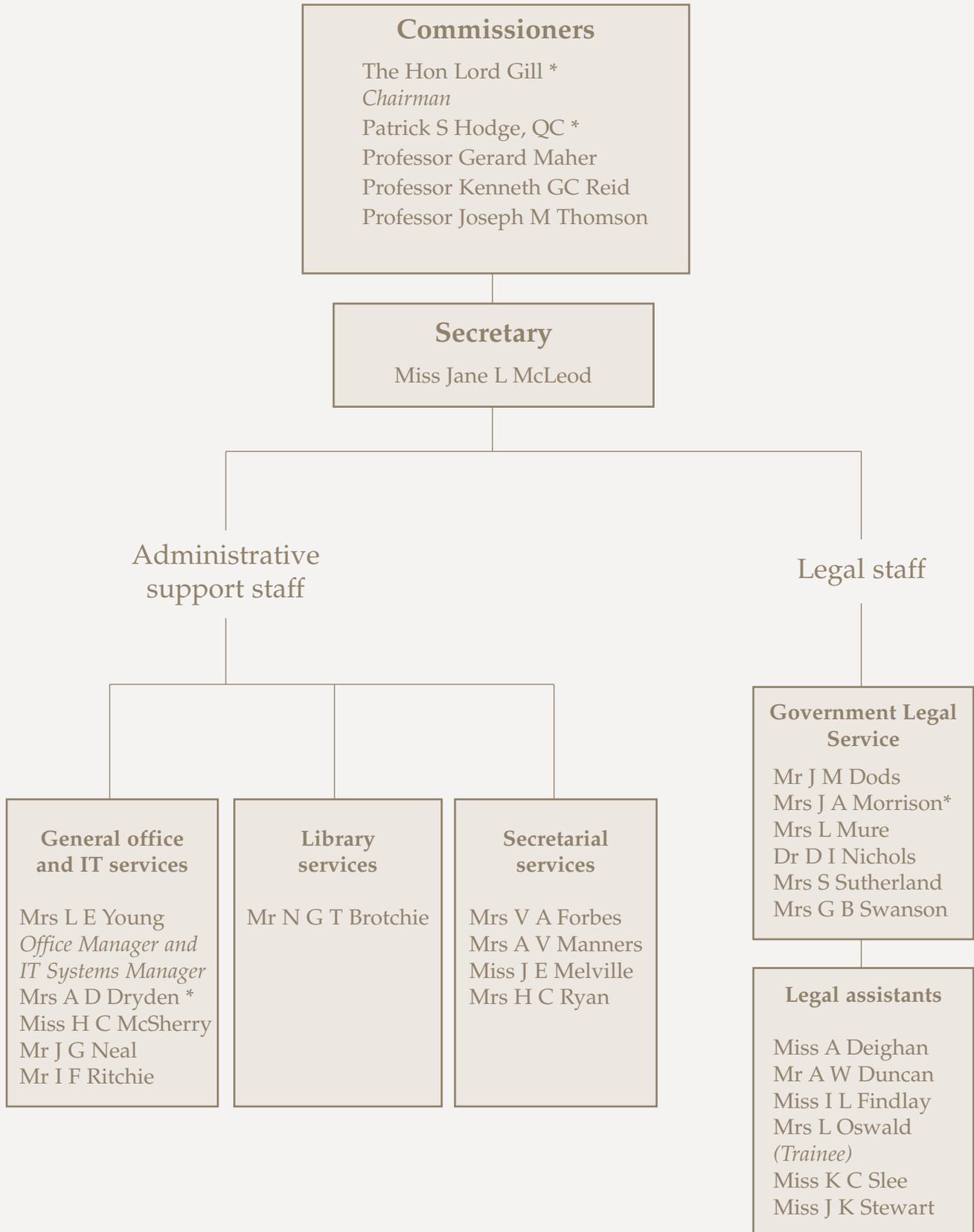
Mr Alasdair G Fox	Solicitor, Edinburgh
Mr J Gordon Reid	Advocate, Edinburgh
Mr Donald G Rennie, OBE, WS	Solicitor, Edinburgh
Mr Robert D Sutherland	Advocate, Edinburgh
Mrs Judith A Morrison (Secretary)	Scottish Law Commission

Foreshore and Seabed: Advisory Group on the Foreshore and Seabed

Mr Ian Abercrombie, QC	Advocate, Edinburgh
Sheriff Vincent Canavan	Sheriff, Hamilton
Mr Martin Corbett	Registers of Scotland
Professor Alan Page	University of Dundee
Professor Robert Rennie	University of Glasgow
Mrs Judith A Morrison (Secretary)	Scottish Law Commission

Organisational chart

As at 31 December 2000



* Part-time

APPENDIX 5

Running costs

	Year to 31 December 2000		Year to 31 March 2000		Year to 31 March 1999	
	£000	£000	£000	£000	£000	£000
Salaries, etc of Commissioners ¹	490.4		380.3		310.0	
Salaries, etc of legal staff ²	389.6		319.9		400.4	
Salaries of administrative staff ³	<u>179.7</u>	1059.7	<u>166.4</u>	866.6	<u>150.1</u>	860.5
Accommodation charges ⁴		68.00		57.6		65.5
Printing and publishing ⁵		75.8		80.0		73.9
Telephone and postage		15.0		11.3		10.5
Travel and subsistence		13.0		7.4		7.8
Miscellaneous ⁶		5.0		4.3		2.2
Totals		<u>1236.5</u>		<u>1027.2</u>		<u>1020.4</u>

Notes

- (1) Earnings Related National Insurance Contributions, superannuation payments and pensions to former Commissioners are included.
- (2) Earnings Related National Insurance Contributions, superannuation payments and consultants' fees and expenses are included.
- (3) Earnings Related National Insurance Contributions and superannuation payments are included.
- (4) Charges include maintenance, rates and utilities.
- (5) Costs of binding, library purchases, machinery maintenance, photocopying, reprographic services and stationery are included.
- (6) Costs of hospitality, office services and training are included.

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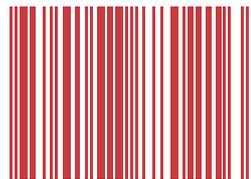
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