

ISSUED ON BEHALF OF THE SCOTTISH LAW COMMISSION
NOT FOR PUBLICATION OR BROADCAST
BEFORE 0001 HOURS 30 September 2008

REPORT ON DAMAGES FOR WRONGFUL DEATH

The Scottish Law Commission today publishes its Report on Damages for Wrongful Death.

The Report makes a number of recommendations for changes to the law of damages in cases where a person dies as a result of personal injuries.

The main recommendation is that the Damages (Scotland) Act 1976, which has been heavily amended, should be repealed and replaced by a new Act which restates the current law in a clearer and simpler form.

The Report also recommends a number of substantive changes to the existing law. These include:

- a new method of calculating the damages payable to a victim's family which recognises that the traditional family model of a single breadwinner is declining and that families must be considered as a whole;
- limiting the classes of relative who have a claim for damages as a result of a victim's death in order to focus more clearly on the victim's immediate family;

The Report also recommends several technical changes in relation to the calculation of damages by the courts.

The Report does not recommend any change to the law in cases where a person dies of mesothelioma. The Rights of Relatives to Damages (Mesothelioma) (Scotland) Act 2007

amended the 1976 Act to allow a victim's relatives to seek damages for their grief and suffering after the victim died, even if the victim had already been awarded damages. The Commission considers that this is appropriate in view of the special features of mesothelioma and that these provisions should be included in the new legislation.

The Report includes a draft Bill which would give effect to its recommendations.

The Report is published in response to a reference from the Scottish Ministers in September 2006. In the reference, the Commission was asked to consider the law relating to damages recoverable in respect of deaths caused by personal injury and the damages recoverable by relatives of an injured person; and to make appropriate recommendations for reform.

NOTES TO EDITORS

1. The Scottish Law Commission was set up in 1965 to promote the reform of the law of Scotland. The Chairman is the Hon Lord Drummond Young, a Court of Session judge. The other Commissioners are Professor George L Gretton, Patrick Layden QC TD, Professor Joseph M Thomson and Colin J Tyre QC. The Chief Executive is Malcolm McMillan.

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

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