



Scottish Law Commission

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ISSUED ON BEHALF OF THE SCOTTISH LAW COMMISSION

NOT FOR PUBLICATION OR BROADCAST

BEFORE 0001 HOURS MONDAY 31 MARCH 2003

LAW OF THE FORESHORE AND SEA BED

Recommendations for reform of the law relating to the foreshore and sea bed are published today by the Scottish Law Commission. Its report follows a comprehensive review of the existing law and public consultation on its draft proposals published in April 2001.

The Commission was requested to carry out the review by the Scottish Executive as part of its wider programme of land reform. The Commission's remit was to consider the existing law of the foreshore and sea bed and advise on possible reforms with a view to improving clarity and consistency.

Central to this review is an analysis of the common law public rights exercisable on the foreshore, sea, sea bed and navigable waters and the interaction of those rights with the statutory right of access established under the Land Reform (Scotland) Act 2003.

The Commission recommends that the common law public rights should be abolished and replaced with statutory rights. These statutory rights taken together with access rights under the 2003 Act would preserve the current extent of the common law rights. In addition, reflecting common social practice, it is recommended that the statutory rights exercisable on the foreshore should also be exercisable on areas of the shore above or landward of the foreshore. The statutory rights would be held directly by the public and not by the Crown on their behalf. As with access rights the local authority would be under a duty to protect the public rights although an individual could take action to vindicate them in the sheriff court or Court of Session.

The Commission also makes recommendations in relation to the extent of Crown ownership of the foreshore and sea bed, crofters' rights to take seaweed from the foreshore, the precedence of udal titles to the foreshore in Orkney and Shetland and competing grants derived from the Crown, grants of rights of port and harbour and reclamation.

A draft bill giving effect to the Commission's recommendations is annexed to the report.

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 Honourable Lord Eassie. The other Commissioners are currently Mr Patrick S Hodge QC, Professor Gerard Maher, Professor Kenneth G C Reid and Professor Joseph M Thomson.
2. Further information can be obtained by contacting Mrs Judith Morrison, Scottish Law Commission, 140 Causewayside, Edinburgh EH9 1PR (Tel: 0131 668 2131, Fax: 0131 662 4900, e-mail: info@scotlawcom.gov.uk.)
3. The paper may be viewed on our website at www.scotlawcom.gov.uk or purchased from TSO Scotland Bookshops.