

Scottish Law Commission

(SCOT LAW COM No 114)

TWENTY-THIRD ANNUAL REPORT 1987-88

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

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EDINBURGH
HER MAJESTY'S STATIONERY OFFICE

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

The Honourable Lord Maxwell, *Chairman*,
Dr E M Clive,
Professor P N Love, CBE,
Mr J Murray, QC (until 1.2.88)¹
Sheriff C G B Nicholson, QC

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

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1. Mr Murray (now the Hon Lord Dervaird) was appointed a Senator of the College of Justice on 2 February 1988. His successor, appointed from 1 September 1988, is Mr W A Nimmo Smith QC.

SCOTTISH LAW COMMISSION

Report for the year ended 15th June, 1988

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

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

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

KENNETH F BARCLAY, *Secretary*
30 August 1988

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



Twenty-Third Annual Report

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Part I General Survey

1.1 It is perhaps of interest to try to check on the utility of this Commission as a law reform agency by considering the number of law reform reports it has submitted since its inception in 1965 and the extent to which they have been given effect by implementing legislation. The details are to be found in the Appendix but the matter may be summarised as follows. Leaving out of account a number of instances where after a review the Commission decided to make no recommendation for change and leaving out of account numerous amendments recommended incidentally in statutory consolidations, from its inception in 1965 to 1985 the Commission submitted slightly in excess of 40 law reform reports, a few of these being reports prepared jointly with the Law Commission for England and Wales. All but two of these have been implemented by legislation. The two exceptions are a relatively minor matter reported on jointly with the English Commission back in 1969 and a relatively recent and, again, joint report on polygamous marriages submitted in 1985. It is thought that the latter is still under consideration by the Government.

1.2 Since 1985 we have submitted a further nine law reform reports, again in some instances jointly with the English. None of these have so far been implemented by legislation but two relating respectively to civil evidence and to choice of law rules in marriage are presently the subject of Bills before Parliament.¹ This bare quotation of figures is perhaps not very informative since the reports vary greatly in size and scope from those which lead to statutes of a few sections to those resulting in massive statutes such as the Bankruptcy (Scotland) Act 1985 and the Debtors (Scotland) Act 1987. It should also be said that not in all cases is the implementing legislation precisely and, in all respects, in line with what we have proposed. In a few cases, such as the Debtors (Scotland) Act of 1987, some parts of our recommendations were not adopted and in at least one case, namely the Civil Evidence Bill mentioned above as introduced by the Government, there has been in one particular respect a quite significant change from our proposals.

1.3 Of the reports recently submitted, the most recent on Requirements of Writing² perhaps merits special mention. This proposes major simplification of a large area of the civil law in relation to the circumstances in which writing is essential for the creation of certain obligations and in relation to the necessary formalities for the execution of writings for certain purposes. This large and, in terms of practical day to day impact, very important branch of our law has in our view over the centuries become almost absurdly complicated and it is hoped that the Government and Parliament will be able to find time in the fairly near future to give attention to our proposals on this subject as well as on other recent reports which have not yet come before Parliament.

1.4 We hope that some of our unimplemented reports would in addition to, in our opinion, simplifying, modernising and improving the law of Scotland go some way at least to removing for Scotland practical difficulties which are currently of immediate public concern. For example, we believe that if our proposals with regard to “computer crime” contained in our report on the subject submitted in June 1987 were implemented, they would provide at least a partial solution, for Scotland, to the activity which in England and Wales was unsuccessfully prosecuted in the recent case of *Reg v Gold* 1988 WLR 984.

1. The Civil Evidence (Scotland) Act 1988 c 32 was given the Royal Assent on 29 July 1988.

2. (1988) Scot Law Com No 112.

1.5 As regards current work on the preparation of reports, we hope in the fairly near future to submit our proposals for reform of rights of relief and contributory negligence and on the complex and difficult problem of recovery of possession of heritable property including the termination of leases and removal of former tenants. Slightly further ahead we hope before long to submit a report proposing reform following a major review of the law of succession. A draft Bill on this topic is in the course of preparation. We are also in the course of preparing a report on the very contentious question of prescription and limitation in claims for latent damage. This subject provokes, not unnaturally and as was revealed at a public seminar which we held in Edinburgh earlier this year, a wide divergence of views and interest as between potential claimants and potential defenders such as, for example, builders and engineers.

1.6 While we would like to be able to predict with more precision than is indicated in the previous paragraph the anticipated date of submission of reports, we have found over the years that this is not possible. Time and again when we think that we have reached satisfactory conclusions as to what we should recommend, we find that unexpected problems emerge when we come to consider the details of draft Bills which always accompany our law reform proposals.

1.7 Turning to the earlier stage of law reform projects we are continuing our invariable practice of preceding the formulation of proposals for law reform by seeking the views of the legal profession and other persons or bodies who may be interested in the subject-matter in question on provisional suggestions for change. We never submit reports recommending reform without being satisfied that they have, if not unanimous, at least a wide support. We have in the past called these documents seeking views “consultative memoranda”. We have recently decided to change the name of these documents for the future to “discussion papers”. This is merely because we think that “discussion paper” is rather less cumbersome and more self-explanatory than “consultative memorandum”. The change of name implies no change in the nature or purpose of these documents and we will continue to use the serial numbering applied in the past to “consultative memoranda”.

1.8 In this connection we would like to emphasise that while in order to elicit comments we put forward what might be called “provisional proposals”, these suggestions in no way represent our concluded views and depending on comments received, we frequently depart from them in formulating our reports which of course do represent our concluded views. We mention this because we have noticed in recent times that the press in reporting on our published documents do not always appear to notice this distinction and sometimes criticise our suggestions in discussion papers as though these were suggestions representing our concluded views. This was particularly noticeable in a relatively recent discussion paper we published, canvassing the possibility of some radical reform of the law of divorce.¹ We, of course, very much welcome and value press comment and criticism especially at the stage of a discussion paper when we can and do take press comment along with the comments of others into account in formulating our final proposals, but it may be a little misleading to the public to refer to discussion papers as though they represented the concluded opinion of this Commission.

1.9 As regards discussion papers, we have recently published one on the difficult, important and topical question of taking evidence from children in court proceedings.² In this connection we are not considering only cases of alleged child abuse, though these cases are of course of particular and topical importance. In preparing this discussion paper, we have had considerable help from enquiries made by one of our Commissioners into various techniques employed in the United States and we have also had great assistance from a report on the same topic prepared by Mrs Kathleen Murray, Honorary Research Fellow of the Department of Administration and Social Work at Glasgow University after a more prolonged study in the United States. Some of our Commissioners and members of staff also attended a seminar on this subject

1. Discussion Paper No 76—*The Ground for Divorce: Should the law be changed?*

2. Discussion Paper No 75—*The Evidence of Children and Other Potentially Vulnerable Witnesses.*

at Stirling University which was addressed by, amongst others, Judge Marjory Fields of the Family Court of the State of New York. More recently, one of our Commissioners and one of our staff members attended an important conference on Child Sexual Abuse which was held in Glasgow and which was addressed by several experienced practitioners in the field from the United States.

1.10 We also hope shortly to publish a discussion paper on hearsay and related matters in criminal proceedings.¹ In view of certain queries raised in a recent debate in the House of Commons on the Civil Evidence Bill, we should perhaps emphasise that there is no question of our suggesting a relaxation of the rule against hearsay in the same way as in the Civil Evidence Bill. The considerations as regards criminal proceedings are quite different. However, we think that some useful simplification and qualification of the rules might be possible while still preserving the essential safeguards for accused persons. We have in mind, amongst other things, some procedure which might, to some extent, reduce the amount of time that witnesses, including police witnesses, have to spend in court waiting in case they are called to give evidence on routine or uncontroversial matters.

1.11 Some time ago, starting with our work that led to our report on Evidence in Cases of Rape and Other Sexual Offences, we decided to take the opportunity presented by having a Commissioner with particular experience in criminal law matters and also a most helpful arrangement by which a Procurator Fiscal is loaned to us by the Crown Office, to diversify our work by examining aspects of criminal law to an extent which had not been done previously by this Commission. The two last mentioned discussion papers are examples of a continuation of this policy. We are also, in the field of criminal law, actively engaged in preparation of a discussion paper on recovery of the proceeds of crime on which the Procurator Fiscal referred to above has already done a considerable amount of work particularly in comparative law research.

1.12 Also on the subject of discussion papers, we are presently engaged in preparing such a paper on the subject of adjudications, the procedure for enforcing debts against heritable property owned by the debtor. The existing law on this topic is archaic, impracticable, fundamentally unfair in principle and scarcely ever used. We are satisfied that it does no credit to a modern legal system. However, as has become clear by a very detailed study prepared by one of our staff members, the question of what if anything should be put in its place presents quite exceptional difficulties and complexities on which we are still working.

1.13 In the area of family law we have, as already mentioned, recently published a discussion paper on divorce. This is an example of a case where although not producing a joint paper we are working in parallel and in close relationship with our colleagues in the Law Commission for England and Wales.

1.14 As regards our future work we are presently considering with the appropriate authorities the question of a Fourth Programme of Law Reform. The question of the nature of programmes is one with regard to which there has been some discussion. Under the Law Commissions Act of 1965, section 3 there are three main ways in which we receive authority for law reform work. Under section 3(1)(a) we can receive and consider any proposals submitted to us by anyone. The most recent law reform report² which we have submitted under a proposal was that relating to the Scottish term and quarter days which we prepared following a proposal submitted to us by the Scottish Landowners Federation in 1986. Under section 3(1)(e) we can carry out work under what are commonly called "references" from Government. While it is rather less than clear exactly what was originally contemplated by section 3(1)(e) which speaks of giving "advice and information to Government" a substantial part of our work is done in pursuance of such references. We expect to receive very shortly references of this kind on two major topical and important subjects, namely, first,

1. Now published as Discussion Paper No 77—*Criminal Evidence—Affidavit Evidence, Hearsay and Related Matters in Criminal Proceedings*.

2. (1987) Scot Law Com No 108.

administrative law and, second, the question of class actions. Finally, and perhaps most important, we can undertake work done under “programmes” approved by the Minister by virtue of section 3(1)(b) and (c) of the Act. Apart from the fact that as regards reports submitted under programmes, the Act provides that the Minister must lay these before Parliament whereas there is no such requirement in relation to reports submitted under references, the intended distinction between programme subjects and references is not always entirely clear. Whatever may have been originally contemplated, we take the view that the programmes ought to refer to fairly large areas of law which we can examine from time to time in whole or in part whereas references should, we think, be used for more limited and precisely defined areas. This distinction, however, has not invariably been followed. Thus our Second Programme dated 1968 while mainly consisting of wide and typical programme subjects such as “succession” and “family law” includes one subject “presumption of death” which we would have thought far too narrow for a programme and more appropriate for a reference. One advantage of programmes stated in wide terms is that they enable us to consider without unnecessary delay particular problems falling within the area which from time to time appear to be giving rise to difficulties in the courts or elsewhere. A recent example is the operation of the law regarding the supersession of missives of sale by a subsequent disposition as stated in *Winston v Patrick* 1981 SLT 41. This case and certain more recent Sheriff Court decisions following on it have been causing some concern to the legal profession and we are able to examine this subject now under our programme entitled “Obligations”.

1.15 The subjects expected to appear in our Fourth Programme are, we consider, appropriate for that treatment. The first is “Property law”. While the programme as defined is in very wide terms and will in future provide us with authority to look at many aspects of property law, it is our intention in the first instance to concentrate on land tenure. Much of the substance of the ancient feudal system has, by various pieces of legislation over the years, been gradually whittled away and it is arguable that this has occurred to such an extent as to leave the system not much more than an empty shell. In the circumstances we think that it should perhaps now be replaced by a simpler system of absolute ownership. We have no doubt that such a change will involve formidable problems.

1.16 The second item in the proposed Fourth Programme concerns powers of attorney, judicial factors and some related matters. This again is a wide subject having very considerable practical importance. One of our staff members has for some time now been conducting research as to the working of the present law in this area.

1.17 In addition to submitting proposals for reform of the law, the 1965 Act imposes on us two further functions: consolidation and statute law revision. Consolidation involves the bringing together under one modern statute of provisions which otherwise can only be found in a number of separate and older statutes. In the course of this work we are entitled to propose amendments, though the Parliamentary procedure in dealing with consolidation Bills requires these to be restricted to amendments of a relatively minor nature. Consolidation work is highly technical and is in practice largely left to the three Parliamentary Draftsmen (one whole-time and two part-time) seconded to this Commission. The most recent consolidation measure submitted by us dealing with the Court of Session statutes received the Royal Assent on 29 July 1988. Our Draftsman who prepared this consolidation was greatly assisted by Mr David Maxwell QC, an expert in Court of Session practice and procedure. We gratefully acknowledge his contribution.

1.18 The position as regards our consolidation function is regrettably less than satisfactory. We have in recent times endeavoured to cut to the bone the amount of assistance we require from relevant Government departments. Nevertheless, in most consolidations a degree of such assistance is normally essential. Unfortunately, and no doubt because of pressure of other work, such assistance tends not to be readily available at this time.

1.19 Our other function of statute law revision involves the removal from the Statute Book of dead wood in the shape of old statutes which are no longer of utility. In this

we work closely with our English colleagues. The work is highly specialised and technical and quite unremitting. It is largely done by one member of our staff, who has acquired expertise in this area, assisted, to some extent, by another staff member and from time to time by recent law graduates who come to work with us during vacation. A vast amount of work is done on this topic, including innumerable enquiries addressed to interested bodies and individuals to ensure that nothing is deleted from the Statute Book which ought to be retained.

1.20 During the course of this year we have lost one of our part-time Commissioners, Mr J ("Ian") Murray QC, on his elevation to the Bench with the judicial title of Lord Dervaird. We congratulate him on his elevation while at the same time regretting his departure from our company. Over the long period during which he was a Commissioner his contribution to our work, notwithstanding his very heavy legal practice as a Queen's Counsel, was quite invaluable. We have recently learned that his place is to be filled by Mr W A Nimmo Smith QC at the beginning of September 1988 and we extend to him a warm welcome.

1.21 Finally, in this part of the report we would like to pay tribute to the devotion, diligence and skill of our quite outstanding staff.

Part II Progress of Law Reform projects

2.1 The present position¹ in each of our current law reform projects is set out in more detail in this Part of our report. The main subject headings are presented in alphabetical order. Programme subjects, which derive from our published programmes,² are denoted by the use of an asterisk.

Administrative Law

2.2 In our last annual report we described the work being carried out on the first phase of our project on administrative law.³ This is primarily concerned with title and interest to sue for judicial review under the common law supervisory jurisdiction of the Court of Session. The broad lines of policy are now settled and a discussion paper is being prepared. Work on the paper is quite well advanced, although we have made rather less progress over the year than we would have wished. Partly this is a consequence of giving other projects higher priority. But mainly it is because our consideration of the apparently self-contained rules of title and interest to sue has raised many issues which are surprisingly general and conceptually complex. We are also undecided as yet how we should treat the relation between common law judicial review and analogous procedures under statute. Nevertheless, we hope to publish our discussion paper on these topics in the course of the next year.

2.3 We also mentioned in our last annual report research which was being carried out at the University of Edinburgh on the impact of decisions of the sheriff on administrative authorities subject to his statutory powers of review.⁴ This is proceeding most satisfactorily and empirical surveys of the effects of decisions made under selected powers are under way. The results of the research will be relevant to the second phase of our administrative law project on remedies and should be available during 1989.

2.4 Our work on administrative law has now been formally subsumed in a reference which you made under section 3(1)(e) of the Law Commissions Act 1965. The terms of the reference are to consider:

- “(1) title and interest to sue in relation to review by the courts of the decisions of administrative authorities;
- (2) judicial remedies which are, or might be made, available in processes of review, including in particular—
 - (a) substitution by the courts of their own orders or directions for decisions under review; and
 - (b) awards of damages; and
- (3) so far as related to these matters—
 - (a) the nature of the decisions which may be subject to review, and the grounds on which they may be reviewed;

1. For the sake of presenting a more complete picture, we mention also certain developments which have taken place since the end of our reporting period (15 June 1988).

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

3. (1987) Scot Law Com No 109, para 2.2.

4. (1987) Scot Law Com No 109, para 2.3.

- (b) the connection between review at common law and review under statute, whether by the Court of Session or the sheriff; and
- (c) the connection between judicial remedies and existing non-judicial remedies.”.

Criminal Law

- General** 2.5 The bulk of the work in the criminal law field derives from proposals for law reform projects under section 3(1)(a) of the Law Commissions Act 1965 and references under section 3(1)(e) of that Act. We continue to respond to consultation by the Law Commission for England and Wales, and to consider the possible implications for Scotland of its work under the programme subject Codification of the Criminal Law.
- Computer crime** 2.6 Our report on *Computer Crime*¹ was submitted to you on 22 June and published on 23 July 1987. As indicated in our last annual report,² the principal recommendation made in the report was that it should be an offence for a person to obtain unauthorised access to a computer’s program or data in order to acquire knowledge of or to alter the program or data with the intention of gaining an advantage for himself or someone else or of damaging another person’s interests. Our recommendations have yet to be implemented.
- Child abduction** 2.7 Our report on *Child Abduction*³ was submitted to the Secretary of State for Scotland on 23 December 1986 and published on 12 February 1987. The report recommended the abolition of the common law crime of plagiary (the ancient crime of child-stealing) and the creation of two new offences. The first of these was the taking or detaining of a child under the age of 16 from the control of any person having lawful control of that child. The second was the taking or sending of a child out of the United Kingdom in contravention of a court order prohibiting the removal of the child from the United Kingdom or any part of it. Our recommendations contained in this report have yet to be implemented.
- Art and part guilt of statutory offences** 2.8 Our report on *Art and Part Guilt of Statutory Offences*⁴ which was published on 18 July 1985, recommended the creation of a new, general offence of aiding, abetting, counselling, procuring or inciting the commission of any statutory offence. The proposals contained in the report have been implemented in section 64 of the Criminal Justice (Scotland) Act 1987⁵ which came into force on 1 October 1987.⁶
- Forfeiture and confiscation** 2.9 On 2 October 1987 we received a reference from the Secretary of State for Scotland asking us to carry out a review of the law of forfeiture and to consider whether further provision should be made to enable the courts to make confiscation orders relating to the proceeds of crime in general. Part I of the Criminal Justice (Scotland) Act 1987 already contains confiscation provisions in relation to drug trafficking offences, which are broadly similar to those enacted for England and Wales in the Drug Trafficking Offences Act 1986.⁷ The first part of our review will examine the powers of courts to order the forfeiture of property used in the commission of a crime. The confiscation of the proceeds of crime in respect of non-drug trafficking offences will be examined in the second part of the project.

1. (1987) Scot Law Com No 106.

2. (1987) Scot Law Com No 109.

3. (1987) Scot Law Com No 102.

4. (1985) Scot Law Com No 93.

5. 1987 c 41.

6. The Criminal Justice (Scotland) Act 1987 (Commencement No 2) Order 1987.

7. 1986 c 32.

Diligence*

(Second Programme, Item 8)

2.10 We have continued to work on the discussion papers (or memoranda) referred to in our last annual report,¹ and have almost completed the preparation of two discussion papers which we hope to publish in the next few months.

2.11 The first discussion paper is concerned with adjudications for debt of heritable rights registrable in the property registers (other than heritably secured debts) and related matters, including the reform of confirmation as executor-creditor attaching heritable property, the abolition of common law pecuniary real burdens, and of poiding of the ground, and the codification of the enactments relating to statutory charging orders on land. Adjudications of non-registrable heritable rights (eg short leases), moveable rights and heritably secured debts will be considered in a later discussion paper.

2.12 The second discussion paper will propose abolition of the statutory rules on equalisation of diligences (adjudications, arrestments and poidings) outside sequestration and seek views on the many detailed reforms which will be necessary if that provisional proposal is not accepted.

Evidence*

(First Programme, Item 1)

2.13 During the 1987-88 Parliamentary Session a Bill² was introduced to implement the recommendations contained in our report on *Corroboration, Hearsay and Related Matters in Civil Proceedings*.³

2.14 Discussion Paper No 75—*The Evidence of Children and Other Potentially Vulnerable Witnesses* was published on 9 June 1988 with a request for comments to be submitted by 14 October 1988. A research paper⁴ compiled for us by Kathleen Murray, an Honorary Research Fellow at the University of Glasgow was published at the same time. In the discussion paper we identified a number of improvements which could be made in practice to the way in which evidence is given by children with a view to making this less distressing for them. We also suggested legal reforms which would enable a child's evidence to be given without requiring the child to appear in court.

2.15 In our last annual report⁵ we referred to the preparation of a consultative memorandum on documentary and computer evidence in criminal proceedings. Due to the urgent nature of the review of evidence of children, priority was given to that topic. However, work has also continued on a more general discussion paper dealing with various aspects of criminal evidence. This will cover such topics as enabling certain evidence to be given by affidavit instead of by attendance at court, hearsay evidence and computer evidence. We hope to publish the discussion paper for comment shortly. Examination of the law governing the circumstances in which an accused may be cross-examined as to his character and previous convictions following the cases of *Templeton v MacLeod*⁶ and *Connor v Lockhart*⁷ was to have formed part of this discussion paper but we have decided with your agreement that no further action should be taken on this matter at this time, as consideration has since been given to it by a full Bench of seven judges.⁸

1. (1987) Scot Law Com No 109, paras 2.9 to 2.11.

2. Civil Evidence (Scotland) Bill. The Bill received the Royal Assent on 29 July 1988 as the Civil Evidence (Scotland) Act 1988, c 32.

3. (1986) Scot Law Com No 100.

4. *Evidence from children: Alternatives to In-court Testimony in Criminal Proceedings in the United States of America*.

5. (1987) Scot Law Com No 109, para 2.13

6. 1985 SCCR 357.

7. 1986 SCCR 360.

8. *Leggate v HMA*.

*Denotes programme subject.

Family Law*

(Second Programme, Item 14)

Law of children (incorporating legal capacity of minors and pupils)

2.16 Our report on *Legal Capacity and Responsibility of Minors and Pupils*¹ was submitted to you on 1 October 1987 and published on 16 December 1987. Its principal recommendations for young people aged under 16 are as follows: a person under 16 should, subject to a few exceptions, have no legal capacity to act on his own behalf; as an exception to this general rule, he should have capacity to enter into “everyday” transactions of a kind commonly entered into by a person of his age; he should also have capacity to consent to medical treatment if, in the opinion of the doctor attending him, he is capable of understanding the nature and consequences of the treatment proposed; a person aged 12 or over should have capacity to make a will and consent to his own adoption. For a young person aged 16 or 17, the report recommends that he should have full capacity to act on his own behalf subject to a right to apply to the court to have prejudicial transactions set aside.

2.17 The next stage of our project on reform of the law of children concerns guardianship and parental rights. Work is likely to commence on this topic later in the year. In the meantime, we have established close links with the review body recently set up by the Secretary of State for Scotland to identify options for change in child care law so as to simplify and improve the present arrangements for protecting children at risk and caring for children and families in need.

Divorce 2.18 Discussion Paper No 76—*The Ground for Divorce: Should the law be changed?*—was published on 25 May 1988 with a request for comments by 31 October 1988. In it we set out two main options for reform, should any change in the law be thought desirable. One is based on a period of separation as the sole ground for divorce; the other would allow divorce, on application, simply after the lapse of a period of time from the giving of notice of intention to divorce. At the same time we have commissioned a public attitude survey to be carried out for us by the Central Research Unit of the Scottish Office. A similar consultation exercise is currently being undertaken by the Law Commission for England and Wales: their Discussion Paper² seeking views on reform of the ground for divorce was also published on 25 May 1988.

Obligations*

(First Programme, Item 2)

Rights in security over moveable property

2.19 As we indicated in our last annual report,³ work on the above topic has been suspended pending the outcome of the review for Great Britain of the law of security over moveable property (including company charge registration) commissioned by the Department of Trade and Industry. This review is being undertaken by Professor A L Diamond (formerly Director of the Institute of Advanced Legal Studies, University of London) together with Mr A J Sim, a recently retired senior member of our legal staff.

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

Requirements of writing

2.21 Following on our consultative memorandum on 31 July 1985,⁴ our report on *Requirements of Writing*⁵ was submitted to you on 29 April and published on 13 July 1988. The effect of the report’s principal recommendations would be:

1. Scot Law Com No 110.

2. Published as a report—Law Com No 170: *Facing the Future—A Discussion Paper on the Ground for Divorce*

3. (1987) Scot Law Com No 109, para 2.15.

4. Scottish Law Commission Consultative Memorandum No 66—*Constitution and Proof of Voluntary Obligations and the Authentication of Writings*.

5. (1988) Scot Law Com No 112.

*Denotes programme subject.

First, the abolition of common law rules requiring writing for the constitution or variation of agreements or obligations—the so-called “obligationes literis”—and the introduction of a short statutory list stating clearly when writing would be required.

Second, the abolition of any statutory provision or common law rule restricting proof of any matter to writ or oath; and of the procedure of reference to oath.

Third, that subscription alone would be necessary and sufficient for the formal validity of those agreements and obligations covered by the proposed new statutory requirement of writing, and wills and conveyances of land. It would no longer be necessary to add the words “adopted as holograph” above the granter’s signature on a typed non-attested document.

Fourth, that the evidential privilege of probativity would be acquired either by attestation of the granter’s subscription by one witness, or by a court docquet obtained after proof of the genuineness of that subscription; and

Fifth, a major rationalisation and simplification of the rules on the authentication of documents by companies and other bodies corporate, by partnerships and government ministers.

Corporeal moveables 2.22 No further work is being undertaken in this area for the time being.

Sale and supply of goods 2.23 As we mentioned in our last annual report,¹ the joint report of the two Law Commissions on *Sale and Supply of Goods*² was submitted to you on 16 April 1987 and published on 28 May 1987. No legislation has yet been introduced to give effect to the Commissions’ recommendations, but we understand that it is under consideration.

Legal capacity of minors and pupils 2.24 As indicated above,³ work has been completed on this topic as part of our major project on reform of the law of children.

Rights of relief and contributory negligence 2.25 On 6 November 1986 we published Consultative Memorandum No 73 on *Civil Liability—Contribution* with a request for comments by 30 April 1987. Work is progressing on the preparation of a report and relative draft Bill with a view to submission to you later this year.

Supersession of missives 2.26 We have become aware of the problems which are increasingly arising in connection with certain conditions in missives for the sale and purchase of heritable property. There have been a number of contrary decisions in the courts and we thought that it would be useful and helpful to undertake a small exercise into the matter. We hope to publish a discussion paper shortly.

Other obligations topics 2.27 The position regarding other topics in the obligations field mentioned in our Twentieth Annual Report⁴ remains unchanged.

Prescription and Limitation of Actions*

(First Programme, Item 3)

Prescription and limitation of actions 2.28 On 2 September 1987 we published Consultative Memorandum No 74 on *Prescription and Limitation of Actions (Latent Damage)* with a request for comments by 15 January 1988 (subsequently extended to 31 January). A seminar, arranged by the Law Faculty of Edinburgh University, to discuss the issues arising from the Consultative Memorandum, was held on 13 January 1988. Sheriff C G B Nicholson QC, introduced our main proposals for reform at that meeting. An analysis of the

1. Scot Law Com No 109, para 2.20.

2. (1987) Law Com No 160; Scot Law Com No 104.

3. See para 2.16 above.

4. (1985) Scot Law Com No 93, para 2.32.

*Denotes programme subject.

comments received subsequent to the seminar has been carried out and we are at present reassessing the options for reform with a view to preparing the report and draft Bill.

Private International Law*

(Third Programme)

- Choice of law rules in tort and delict** 2.29 In December 1984 the two Law Commissions published a joint consultative document on the *Choice of Law Rules in Tort and Delict*.¹ Comments were invited by 16 July 1985. Certain aspects of our proposals have proved particularly difficult to finalise and these are the subject of reconsideration at the present time. Once these issues have been resolved, we hope to start work on preparation of a joint report.
- Polygamous marriages** 2.30 The joint report by the two Law Commissions on *Polygamous Marriages—Capacity to Contract a Polygamous Marriage and Related Issues*² was published on 8 August 1985. As yet no legislation has been introduced to implement the recommendations in the report.
- Domicile** 2.31 The joint report by the two Law Commissions on *The Law of Domicile*³ was published on 3 September 1987. The effect of its main recommendations would be: a child, ie a person under 16, would be domiciled in the country with which he was most closely connected and certain rebuttable presumptions would be introduced to assist in determining the country of closest connection; a person over 16 would acquire a new domicile by going to a new country and showing an intention to settle there for an indefinite period; the rule whereby a person's domicile of origin revived if he abandoned his domicile of choice without acquiring a new one would be abolished and instead an established domicile would continue until a new domicile was acquired.
- Choice of law rules in marriage** 2.32 As we mentioned in our last annual report,⁴ the joint report of the two Law Commissions on *Choice of Law Rules in Marriage*⁵ was submitted to you on 29 May and published on 2 July 1987. A Bill to implement the recommendations in the report is currently before Parliament.

Succession*

(Second Programme, Item 7)

2.33 In September 1986 we published three consultative memoranda on the law of succession. Consultative Memorandum No 69—*Intestate Succession and Legal Rights*—discussed possible reforms of the law of intestate succession and the claims which can be made by a person who is excluded from inheriting either by a will or by the law of intestate succession. This memorandum took account of the results of a public opinion survey carried out for us by System Three Scotland on attitudes to various issues arising in succession law. Consultative Memorandum No 70—*The Making and Revocation of Wills*—looked at the possible validation of improperly executed wills, rectification of wills to correct errors of expression and what effect the testator's subsequent marriage or divorce should have on his or her will. Consultative Memorandum No 71—*Some Miscellaneous Topics in the Law of Succession*—covered a variety of matters including criminal heirs, the Forfeiture Act 1982, presumptions of survivorship and special destinations.

2.34 We received a large number of comments from organisations and individuals on these memoranda, on the short "popular pamphlet" that was published at the same

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

2. (1985) Law Com No 146; Scot Law Com No 96.

3. (1987) Law Com No 168; Scot Law Com No 107.

4. Scot Law Com No 109, para 2.30.

5. (1987) Law Com No 165; Scot Law Com No 105.

*Denotes programme subject.

time, and at three public meetings held in different cities to discuss our provisional proposals for reform. Work is now well advanced on the preparation of a report on this subject.

Statute Law

- Consolidation** 2.35 As in the past, progress is recorded under two heads: consolidation of legislation applying to Scotland only; and consolidation of legislation extending to other parts of the United Kingdom as well as to Scotland.
- (a) *Scotland-only consolidations*
*First Programme*¹ 2.36 *Court of Session*—Our report² on this consolidation was submitted to you on 1 March 1988 and published on 9 March 1988. The Bill has now completed its Parliamentary stages and has been enacted as the Court of Session Act 1988, c 36.
- Second Programme*³ 2.37 As mentioned in previous annual reports, work on the Commission's Second Programme of Consolidation and Statute Law Revision has been completed.
- Third Programme*⁴ 2.38 The position on the outstanding items in the Third Programme remains as stated in our last annual report.⁵ Work on the consolidation of the Prisons legislation has been suspended pending the introduction of changes in the legislation by the Government. It is hoped that the Bill can be introduced during the 1988-89 Session.
- Fourth Programme*⁶ 2.39 We have now commenced work on the consolidation of the Scottish Town and Country Planning legislation and it is hoped that a Bill will be ready some time next year.
- (b) *United Kingdom and Great Britain consolidations* 2.40 The following Act has been passed since completion of this Commission's Twenty-Second Annual Report:
Income and Corporation Taxes Act 1988.⁷
- 2.41 Bills on the following subject, introduced in the 1987-88 Session, have yet to receive the Royal Assent:
Road Traffic Bill
Road Traffic Offenders Bill
Road Traffic (Consequential Provisions) Bill.
- 2.42 Bills on the following subjects are in the course of preparation:
Capital Allowances
Firearms
Social Security
Tribunals and Inquiries Act 1971.
- Statute law revision** 2.43 Work is continuing on the Thirteenth Joint Report on Statute Law Revision on which we are co-operating closely with our colleagues in the English Law Commission. We expect to publish the report and Statute Law (Repeals) Bill soon, but the precise

1. (1966) Scot Law Com No 2.
2. (1988) Scot Law Com No 111.
3. (1973) Scot Law Com No 27.
4. (1978) Scot Law Com No 46.
5. (1987) Scot Law Com No 109.
6. (1982) Scot Law Com No 71.
7. 1988 c 1.

timing will depend largely on our English colleagues. They are able to allocate more resources to this work than we can and the bulk of the proposals generally reflects their input. Nevertheless, we have been able to make a reasonably satisfactory Scottish contribution to the proposed report, apart from the necessary support on the Scottish aspects of United Kingdom proposals. We would hope to continue to make an effective contribution in future, although the never-ending need for statute law revision does cause pressure on our limited resources.

Local legislation 2.44 We mentioned the work of the Joint Working Party on Local Legislation in our last annual report.¹ The Working Party has not met since the meeting of 6 July 1987 referred to. However, certain recommendations made in the paper on local statutory instruments considered at that meeting have now been implemented. These are mainly concerned with the indexing and listing of instruments by the Statutory Publications Office.

2.45 We also referred in our last annual report to the work being undertaken in connection with the Chronological Table of Local and Personal Acts.² As we mentioned, we are reviewing local authority Private Acts in Scotland to see how much live law remains after the general repeal effected by section 225(6) of the Local Government (Scotland) Act 1973. Numerous local authorities have expressed themselves in favour of such a review. However, progress is unavoidably slow, given the scarcity of resources for work of this nature when local authorities are faced with many more pressing priorities.

Other Matters

Class actions 2.46 We have now agreed with you a reference in the following terms:

- “(a) To consider the desirability and feasibility of introducing in Scottish civil court proceedings arrangements to provide a more effective remedy in situations where a number of persons have the same or similar rights;
- (b) to consider how such arrangements might be funded; and
- (c) to make recommendations.”.

We hope to commence work on this reference shortly.

Judicial factors 2.47 As mentioned in our last annual report³ we had commenced work on this subject as a result of a proposal under section 3(1)(a) of the Law Commissions Act 1965. Since then, as stated in paragraphs 1.14-1.16 of this report, we have had discussions with you and others on the question of a Fourth Programme of Law Reform and included within that programme will be this subject.

2.48 Because of other commitments it has not been possible to do much further work on this topic. The Commission sent two participants to the “Workshop on the Rights of the Elderly with Mental Disorder” organised by the Mental Welfare Commission for Scotland under the auspices of the World Health Organisation held in Edinburgh in November 1987. In April 1988 Dr Clive attended the Sixth World Conference of the International Society of Family Law on “The Law and the Elderly” in Tokyo. We intend to start work within the next year on the preparation of one or more discussion papers on the management of the property, finances and personal welfare of mentally incapacitated adults and other more technical issues in the area of judicial factors generally.

Powers of attorney 2.49 As is the case with judicial factors, this subject will be covered by our forthcoming Fourth Programme of Law Reform although again we had, as mentioned in our last annual report,⁴ taken some preliminary action on the basis of a proposal.

1. (1987) Scot Law Com No 109, para 2.43.

2. (1987) Scot Law Com No 109, para 2.44.

3. (1987) Scot Law Com No 109, para 2.46.

4. 1987 Scot Law Com No 109, para 2.48

2.50 We have not done much further work on this topic due to other commitments. However, we have carried out a research project on a sample of powers of attorney registered in the Books of Council and Session in order to obtain background information on the personal characteristics of the granters and the nature of attorneys appointed. We intend to start work very soon on the preparation of a discussion paper dealing with matters such as the scope of the attorney's powers, termination of powers and the protection of people who deal with an attorney.

Floating charges and receivers

2.51 As we indicated in our last annual report,¹ Consultative Memorandum No 72—*Floating Charges and Receivers*—was published on 3 October 1986 with an invitation to submit comments by 31 March 1987. An analysis of the comments received has been carried out, but the nature and timing of any further work in this area may well be influenced, however, by the outcome of the general review for Great Britain of the law relating to security over moveable property commissioned by the Department of Trade and Industry.²

Property law

2.52 As mentioned in paragraph 1.15 this is to be an item in our forthcoming Fourth Programme of Law Reform. The subject is of course a large one but we have already commenced preliminary work on land tenure.

Recovery of possession of heritable property

2.53 Work on this branch of law has proceeded with a consideration of various further issues which arose in relation to this subject. We have formulated our policy on these additional matters. The preparation of a report and draft Bill is almost completed. We expect to submit this report to you and the Secretary of State for Scotland in the near future.

The Scottish term and quarter days

2.54 Our report on this subject, which was submitted on 24 August 1987, makes recommendations concerning the Scottish term and quarter days. We recommended in particular a statutory definition for all legal purposes of Whitsunday, Martinmas, Candlemas and Lammas. The report was published on 29 October 1987.³

Miscellaneous: Advice to Government Departments, Etc.

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

Reservation of title to corporeal moveable property

2.56 It is understood that the draft European Convention on reservation of title to corporeal moveables referred to in previous annual reports⁴ still remains under consideration in the Council of Europe, and that work on a draft EEC Directive on the same topic is still in abeyance pending the outcome of the discussions on the draft Convention.

1. (1987) Scot Law Com No 109, para 2.49.

2. See para 2.19 above regarding 'Rights in Security over Moveable Property'.

3. (1987) Scot Law Com No 108.

4. See our Nineteenth Annual Report (1984) Scot Law Com No 89, para 3.58.

Part III Consultation

The Law Commission for England and Wales

3.1 We continue our close co-operation with the Law Commission for England and Wales. During the year under review we have worked together on various matters, including choice of law rules in tort and delict,¹ the law of domicile,² choice of law rules relating to marriage³ and the grounds of divorce.⁴

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

Working party on contract law

3.3 Our Working Party⁵ on Contract Law has remained in being for the purpose of considering relevant papers published by the Law Commission for England and Wales and such other matters as may be referred to it from time to time.

Other Law Reform Organisations

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

The Legal and Other Professions, etc

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

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

Conferences, Seminars, etc

3.7 Commissioners and members of our legal staff attended a number of conferences, seminars and colloquia in the course of the year under review.

1. See para 2.29.

2. See para 2.31.

3. See para 2.32.

4. See para 2.18.

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

Part IV Miscellaneous

Commissioners

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

The Honourable Lord Maxwell, <i>Chairman</i>	(Full-time)
Dr E M Clive	(Full-time)
Professor P N Love, CBE	(Part-time)
Vacancy ¹	(Part-time)
Sheriff C G B Nicholson, QC	(Full-time).

4.2 As mentioned at paragraph 1.20, Mr J Murray QC (now the Hon Lord Dervaird) retired from membership of the Commission on his appointment on 2 February 1988 as a Senator of the College of Justice. As from 1 September 1988 Mr W A Nimmo Smith QC has been appointed as a part-time Commissioner.

Staff

4.3 Our legal staff consists of one full-time and two part-time Parliamentary Draftsmen, our Secretary and nine other qualified lawyers. During the summer vacation of 1987 we employed five honours graduates in law to assist with our research work. We wish to thank them all for their assistance. Our complement of non-legal staff remains at eleven.

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

<i>Parliamentary draftsmen</i>	
Mr J F Wallace, QC	(Full-time)
Mr G S Douglas, QC	(Part-time)
Mr W C Galbraith, QC	(Part-time)

Secretary
Mr K F Barclay

Assistant Solicitors
Mrs L A Lilleker
Mr N R Whitty

Other members of legal staff
Mrs D F Barbirou
Mrs A F Bevan
Mr D Kelly²
Mr J G S Maclean
Miss J L McLeod
Mr M McMillan
Dr D I Nichols

Librarian
Mrs C A John

Chief Clerk
Mrs M J W Turnbull

1. Mr Murray (now the Hon Lord Dervaird) was appointed a Senator of the College of Justice on 2 February 1988.
2. On loan from the Procurator Fiscal Service.

Departmental Committees and Other Bodies

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

Statute Law Committee

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

Advisory committees on arbitration law

Department of Trade and Industry Advisory Committee

4.7 Mr Murray served as a member of the Department of Trade and Industry Advisory Committee on Arbitration Law, which is chaired by Lord Justice Mustill. A former member of our legal staff² acted as an alternative member. The Committee's task is to advise the Government regarding the United Nations draft Model Law on International Commercial Arbitration.

Scottish Advisory Committee

4.8 A member of our legal staff, Mrs A F Bevan, is a member of the Scottish Advisory Committee on Arbitration Law, but not in a representative capacity. The Committee will advise on the possible implementation in Scotland of the United Nations Model Law on International Commercial Arbitration, and in turn will also examine the system of arbitration in Scotland.

Scrutiny of Bills

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

Appendices

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

1. Permanent Secretary of the Lord Chancellor's Department.
2. Mr J C Mullin.

Appendix I

Membership of Working Parties

Joint Working Party on Local Legislation

The Hon Mr Justice Beldam (Chairman)
The Hon Lord Maxwell
Mr B J Davenport, QC
Mr H W Gamon, CBE MC
Mr J G S Maclean (as alternate for Lord Maxwell)
Mr R J B Morris
Mr D Rippengal, CB QC
Mr R H Streeten
Mr M J Ware, CB QC

Secretary: Mr A M Rowland, Law Commission for England and Wales

Law Commission for England and Wales
Scottish Law Commission
Law Commission for England and Wales
Society of Parliamentary Agents
Scottish Law Commission
Chief Executive and Town Clerk, Northampton Borough Council
Counsel to Chairman of Committees
Law Commission for England and Wales
Solicitor, Department of the Environment

Working Party on Contract Law

The Hon Lord Dervaird (Chairman)
Professor P N Love, CBE
Professor R Black
Mr M G Clarke
Professor W W McBryde
Professor Emeritus Sir Thomas Smith QC
Secretary: Mrs A F Bevan, Scottish Law Commission

Scottish Law Commission
Scottish Law Commission
University of Edinburgh
Faculty of Advocates
University of Dundee
Consultant on Obligations

Appendix II

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

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

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

Commission

	No	
	29	Third Programme of Law Reform
	30	Report on Liability for Antenatal Injury (Cmnd 5371)
	31	Report on the Law relating to Damages for Injuries Causing Death
	32	*Statute Law Revision—Fifth Report: Draft Statute Law (Repeals) Bill (Cmnd 5493)
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1974	33	Eighth Annual Report 1972–73
	34	Report on Presumption of Death
	35	*Friendly Societies Bill—Report on the Consolidation of the Friendly Societies Acts 1896 to 1971 and certain other enactments relating to the Societies to which those Acts apply (Cmnd 5634)
	36	*Statute Law Revision—Sixth Report: Draft Statute Law (Repeals) Bill (Cmnd 5792)
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1975	37	Ninth Annual Report 1973–74
	38	*Supply Powers Bill—Report on the Consolidation of Enactments relating to Supply Powers (Cmnd 5850)
	39	*Exemption Clauses—Second Report
	40	*Statute Law Revision—Seventh Report: Draft Statute Law (Repeals) Bill (Cmnd 6303)
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1976	41	Tenth Annual Report 1974–75
	42	Family Law: Report on Liability for Adultery and Enticement of a Spouse
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1977	43	Eleventh Annual Report 1975–76
	44	*Statute Law Revision—Eighth Report: Draft Statute Law (Repeals) Bill (Cmnd 6719)
	45	*Report on Liabilities for Defective Products (Cmnd 6831)
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1978	46	Third Programme of Consolidation and Statute Law Revision
	47	Twelfth Annual Report 1976–77
	48	*Statute Law Revision—Ninth Report: Draft Statute Law (Repeals) Bill (Cmnd 7189)
	49	Electricity (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Electricity in Scotland (Cmnd 7178)
	50	Adoption (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Adoption in Scotland (Cmnd 7187)
	51	Damages for Personal Injuries: Report on (1) Admissibility of Claims for Services (2) Admissible Deductions
	52	Report on the Married Women's Policies of Assurance (Scotland) Act 1880 (Cmnd 7245)
	53	*Interpretation Bill—Report on Interpretation Act 1889 and Certain other Enactments relating to the Construction and Operation of Acts of Parliament and other Instruments (Cmnd 7235)
	54	*Customs and Excise Management Bill—Report on the Consolidation of the Enactments relating to the Collection and Management of the Revenues of Customs and Excise (Cmnd 7418)
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1979	55	Thirteenth Annual Report 1977–78
	56	Fourteenth Annual Report 1978–79
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1980	57	Report on Lost and Abandoned Property
	58	Education (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Education in Scotland (Cmnd 7688)
	59	Report on Powers of Judicial Factors (Cmnd 7904)
	60	Report on Occupancy Rights in the Matrimonial Home and Domestic Violence
	61	Fifteenth Annual Report 1979–80
	62	*Judicial Pensions Bill—Report on the Consolidation of Certain Enactments relating to Pensions and other Benefits payable in respect of Service in Judicial Office (Cmnd 8097)
	63	*Statute Law Revision—Tenth Report: Draft Statute Law (Repeals) Bill (Cmnd 8089)
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1981	64	Report on Section 5 of the Damages (Scotland) Act 1976
	65	*Trustee Savings Banks Bill—Report on the Consolidation of the Trustee Savings Banks Acts 1969 to 1978 (Cmnd 8257)
	66	*Report on the Council of Europe Conventions on Foreign Money Liabilities (1967) and on the Place of Payment of Money Liabilities (1972) (Cmnd 8318)

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

Commission

No

- 67 Family Law—Report on Aliment and Financial Provision
68 Report on Bankruptcy and Related Aspects of Insolvency and Liquidation¹
69 Report on the Law of Incest in Scotland (Cmnd 8422)
70 Sixteenth Annual Report 1980–81
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- 1982 71 Fourth Programme of Consolidation and Statute Law Revision
72 Family Law—Report on Financial Provision after Foreign Divorce
73 Seventeenth Annual Report 1981–82
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- 1983 74 Prescription and the Limitation of Actions—Report on Personal Injuries Actions and Private International Law Questions
75 Report on Irritancies in Leases (Cmnd 8760)
76 Family Law—Report on Outdated Rules in the Law of Husband and Wife
77 *Medical Bill—Report on the consolidation of the Medical Acts 1956 to 1978 and certain related provisions (Cmnd 8839)
78 Evidence—Report on Evidence in Cases of Rape and Other Sexual Offences
79 Obligations—Report on Rectification of Contractual and Other Documents
80 Report on the Mental Element in Crime (Cmnd 9047)
81 Eighteenth Annual Report 1982–83
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- 1984 82 Family Law—Report on Illegitimacy
83 *Amendment of the Companies Acts 1948–1983—Report under section 116 of the Companies Act 1981 (Cmnd 9114)
84 *Dentists Bill—Report on the Consolidation of the Dentists Acts 1957 to 1983 (Cmnd 9119)
85 *Road Traffic Regulation Bill—Report on the Consolidation of the Road Traffic Regulation Act 1967 and certain related enactments (Cmnd 9162)
86 Family Law—Report on Matrimonial Property
87 *Further Amendments of the Companies Acts 1948–1983—Report under section 116 of the Companies Act 1981 (Cmnd 9272)
88 *Private International Law—Report on Recognition of Foreign Nullity Decrees and Related Matters (Cmnd 9341)
89 Nineteenth Annual Report 1983–84
90 Report on Breach of Confidence
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- 1985 91 *Family Law—Report on Custody of Children: Jurisdiction and Enforcement within the United Kingdom (Cmnd 9419)
92 Obligations—Report on Negligent Misrepresentation
93 Report on Art and Part Guilt of Statutory Offences (Cmnd 9551)
94 *Report on the Consolidation of the Housing Acts—Housing Bill, Housing Associations Bill, Landlord and Tenant Bill (Cmnd 9515)
95 Report on Diligence and Debtor Protection
96 *Private International Law—Polygamous Marriages: Report on Capacity to Contract a Polygamous Marriage and Related Issues (Cmnd 9595)
97 Obligations—Report on Civil Liability in relation to Animals
98 Twentieth Annual Report 1984–85
99 Statute Law Revision—Twelfth Report: Draft Statute Law (Repeals) Bill (Cmnd 9648)
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- 1986 100 Evidence—Report on Corroboration, Hearsay and Related Matters in Civil Proceedings
101 Twenty-First Annual Report 1985–86
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- 1987 102 Report on Child Abduction (Cm 64)
103 Housing (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Scotland (Cm 104)
104 *Report on Sale and Supply of Goods (Cm 137)

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

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

Commission

No

- 105 *Private International Law—Report on Choice of Law Rules in Marriage
- 106 Report on Computer Crime (Cm 174)
- 107 *Private International Law—Report on the Law of Domicile (Cm 200)

-
- 1988 108 Report on the Scottish Term and Quarter Days (Cm 208)
 - 109 Twenty-Second Annual Report 1986–87
 - 110 Report on the Legal Capacity and Responsibility of Minors and Pupils
 - 111 Court of Session Bill (Cm 315)
 - 112 Report on Requirements of Writing
 - 113 *Road Traffic Bill, Road Traffic Offenders Bill, Road Traffic (Consequential Provisions) Bill—Report on the Consolidation of Certain Enactments relation to Road Traffic (Cm 390)

2 Scottish Law Commission—Consultative memoranda/Discussion papers¹ circulated for comment and criticism

		<i>No of Resulting Report</i>
1966	Memorandum No 1—Probates or Letters of Administration as Links in Title to Heritable Property under the Succession (Scotland) Act 1964	
	Memorandum No 2—Expenses in Criminal Cases	
1967	Memorandum No 3—Restrictions on the Creation of Liferents	
	Memorandum No 4—Applications for Planning Permission	
	Memorandum No 5—Damages for Injuries Causing Death	
	*Memorandum No 6—Interpretation of Statutes	11
1968	*Memorandum No 7—Provisional Proposals Relating to Sale of Goods	12
	Memorandum No 8—Draft Evidence Code—First Part	
1969	Memorandum No 9—Prescription and Limitation of Actions	15
	Memorandum No 10—Examination of the Companies (Floating Charges) (Scotland) Act 1961	14
	Memorandum No 11—Presumptions of Survivorship and Death	34
	Memorandum No 12—Judgments Extension Acts	
1970	Memorandum No 13—Jurisdiction in Divorce	25
1971	Memorandum No 14—Remedies in Administrative Law	
	*Memorandum No 15—The Exclusion of Liability for Negligence in the Sale of Goods and Exemption Clauses for the Supply of Services and other Contracts	39
	Memorandum No 16—Insolvency, Bankruptcy and Liquidation	68
1972	Memorandum No 17—Damages for Injuries Causing Death	31 and 64
1974	Memorandum No 18—Liability of a Paramour in Damages for Adultery and Enticement of a Spouse	42
	Memorandum No 19—Powers of Judicial Factors	59
1975	*Memorandum No 20—Liability for Defective Products	45
	Memorandum No 21—Damages for Personal Injuries—Deductions and Heads of Claim	51
1976	Memorandum No 22—Aliment and Financial Provision (2 Vols)	67
	*Memorandum No 23—Custody of Children—Jurisdiction and Enforcement within the United Kingdom	91
	Memorandum No 24—Corporeal Moveables—General Introduction and Summary of Provisional Proposals	
	Memorandum No 25—Corporeal Moveables—Passing of Risk and of Ownership	
	Memorandum No 26—Corporeal Moveables—Some Problems of Classification	
	Memorandum No 27—Corporeal Moveables—Protection of the Onerous <i>bona fide</i> Acquirer of Another's Property	
	Memorandum No 28—Corporeal Moveables—Mixing, Union and Creation	

1. In the past, papers circulated by the Commission for consultation purposes were known as memoranda and subsequently as consultative memoranda. Such papers are now known as discussion papers. The numerical sequence used to identify discussion papers continues that used for consultative memoranda.

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

	Memorandum No 29—Corporeal Moveables—Lost and Abandoned Property	57
	Memorandum No 30—Corporeal Moveables—Usucapion or Acquisitive Prescription	
	Memorandum No 31—Corporeal Moveables—Remedies	
	Memorandum No 32—Comments on White Paper ‘ <i>Our Changing Democracy: Devolution to Scotland and Wales</i> ’ Appendix—Devolution, Scots Law and the Role of the Commission	
	Memorandum No 33—Law of Rights in Security—Company Law—Registration of Charges: Scotland	
1977	Memorandum No 34—Constitution and Proof of Voluntary Obligations—General Introduction and Summary of Provisional Proposals	
	Memorandum No 35—Constitution and Proof of Voluntary Obligations—Unilateral Promises	
	Memorandum No 36—Constitution and Proof of Voluntary Obligations—Formation of Contract	
	Memorandum No 37—Constitution and Proof of Voluntary Obligations—Abortive Constitution	
	Memorandum No 38—Constitution and Proof of Voluntary Obligations—Stipulations in Favour of Third Parties	
	Memorandum No 39—Constitution and Proof of Voluntary Obligations—Formalities of Constitution and Restrictions on Proof	112
	Memorandum No 40—Confidential Information	90
1978	Memorandum No 41—Family Law: Occupancy Rights in the Matrimonial Home and Domestic Violence (2 Vols)	60
	Memorandum No 42—Defective Consent and Consequential Matters (2 Vols)	92
1979	Memorandum No 43—Defective Expression and its Correction	79
1980	Memorandum No 44—The Law of Incest in Scotland	69
	Memorandum No 45—Time-Limits in Actions for Personal Injuries	74
	Memorandum No 46—The Law of Evidence	78 and 100
	Memorandum No 47—First Memorandum on Diligence—General Issues and Introduction	95
	Memorandum No 48—Second Memorandum on Diligence: Poidings and Warrant Sales	95
	Memorandum No 49—Third Memorandum on Diligence: Arrestment and Judicial Transfer of Earnings	95
	Memorandum No 50—Fourth Memorandum on Diligence: Debt Arrangement Schemes	95
	Memorandum No 51—Fifth Memorandum on Diligence: Administration of Diligence	95
1981	Memorandum No 52—Irritancies in Leases	75
1982	Memorandum No 53—Family Law: Illegitimacy	82
	Memorandum No 54—Some Obsolete and Discriminatory Rules in the Law of Husband and Wife	76
	Memorandum No 55—Civil Liability in relation to Animals	97
	*Memorandum No 56—Polygamous Marriages (Capacity to Contract a Polygamous Marriage and the Concept of the Potentially Polygamous Marriage)	96
1983	Memorandum No 57—Matrimonial Property	86
	*Memorandum No 58—Sale and Supply of Goods	104
1984	Memorandum No 59—Recovery of Possession of Heritable Property	
	Memorandum No 60—Mobbing and Rioting	
	Memorandum No 61—Attempted Homicide	
	*Memorandum No 62—Private International Law: Choice of Law in Tort/Delict	
1985	*Memorandum No 63—Private International Law: The Law of Domicile	107
	*Memorandum No 64—Private International Law: Choice of Law Rules in Marriage	105
	Memorandum No 65—Legal Capacity and Responsibility of Minors and Pupils	110
	Memorandum No 66—Constitution and Proof of Voluntary Obligations and the Authentication of Writings	112
	Memorandum No 67—Child Abduction	102
1986	Memorandum No 68—Computer Crime	106
	Memorandum No 69—Intestate Succession and Legal Rights	
	Memorandum No 70—The Making and Revocation of Wills	
	Memorandum No 71—Some Miscellaneous Topics in the Law of Succession	
	Memorandum No 72—Floating Charges and Receivers	
	Memorandum No 73—Civil Liability—Contribution	
1987	Memorandum No 74—Prescription and Limitation of Actions (Latent Damage)	

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

- 1988 Discussion Paper No 75—The Evidence of Children and Other Potentially Vulnerable Witnesses
 Discussion Paper No 76—The Ground for Divorce—Should the law be changed?
 Discussion Paper No 77—Criminal Evidence—Affidavit Evidence, Hearsay and Related Matters
 in Criminal Proceedings

3 Scottish Law Commission—Other published documents

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

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

- 1969 Married Women's Policies of Assurance (Scotland) Act 1880—Working Paper
- 1973 Consultation Paper on Divorce for Incurable Insanity
- 1974 Insolvency, Bankruptcy and Liquidation in Scotland—Consultative Paper
- 1978 Consultation Document—Private International Law: Choice of Law Rules in the EEC Draft Insurance Services Directive
- 1979 Consultation Paper—Bankruptcy: Gibson v Hunter Home Designs Ltd
 Consultative Note on section 5 (6) of the Damages (Scotland) Act 1976
- 1980 Consultation Paper—Prescription and Limitation in Private International Law
- 1981 Consultation Paper—Financial Provision after Foreign Divorce
- 1982 Consultation Paper—Exchange of Standard Term Forms in Contract Formation
 Consultation Paper—Breach of Confidence
- 1983 Consultation Paper—Custody of Children: Jurisdiction and Enforcement within the United Kingdom: Jurisdiction of the Sheriff Court
 Supplementary Consultation Paper—Conflicts of Jurisdiction affecting the Custody of Children
 Consultation Paper—Illegitimacy and the Guardianship Acts
 *Consultation Paper—Recognition of Foreign Nullity Decrees and Related Matters
- 1984 Consultation Paper—Art and Part Guilt of Statutory Offences
- 1986 Consultation Paper—The Scottish Term and Quarter Days: A Statutory Definition (Resulting Report—Scot Law Comm No 108)
 Consultation Paper—Termination of Leases: Contracting Out of the Statutory Notice Provisions

5 Scottish Law Commission—Unpublished Confidential Documents

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

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

Appendix III

Statutory Provisions relating to the Scottish Law Commission's Proposals

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

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

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

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

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

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

<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
Family Law—Report on Illegitimacy (Scot Law Com No 82)	26.1.84	Law Reform (Parent and Child) (Scotland) Act 1986 (c 9).
*Amendment of the Companies Acts 1948–1983 (Scot Law Com No 83) (Cmnd 9114)	21.12.83	Companies Acts (Pre-Consolidation Amendments) Order 1983 (S.I. 1983/134) Companies Act 1985 (c 6).
*Dentists Bill (Scot Law Com No 84) (Cmnd 9119)	18.1.84	Dentists Act 1984 (c 24).
*Road Traffic Regulation Bill (Scot Law Com No 85) (Cmnd 9162)	21.2.84	Road Traffic Regulation Act 1984 (c 27).
Family Law—Report on Matrimonial Property (Scot Law Com No 86)	21.6.84	Family Law (Scotland) Act 1985 (c 37).
*Further Amendments of the Companies Acts 1948–1983 (Scot Law Com No 87) (Cmnd 9272)	25.6.84	Companies Acts (Pre-Consolidation Amendments) (No 2) Order 1984 (S.I. 1984/1169) Companies Act 1985 (c 6).
*Private International Law—Report on Recognition of Foreign Nullity Decrees and Related Matters (Scot Law Com No 88) (Cmnd 9341)	19.9.84	Family Law Act 1986 (c 55).
Report on Breach of Confidence (Scot Law Com No 90)	20.12.84	None required.
*Family Law—Report on Custody of Children: Jurisdiction and Enforcement within the United Kingdom (Scot Law Com No 91) (Cmnd 9419)	15.1.85	Family Law Act 1986 (c 55).
Obligations—Report on Negligent Misrepresentation (Scot Law Com No 92)	24.1.85	Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c 73).
Report on Art and Part Guilt of Statutory Offences (Scot Law Com No 93) (Cmnd 9551)	18.7.85	Criminal Justice (Scotland) Act 1987 (c 41).
*Report on the Consolidation of the Housing Acts—Housing Bill, Housing Associations Bill, Landlord and Tenant Bill (Scot Law Com No 94) (Cmnd 9515)	10.5.85	Housing Associations Act 1985 (c 69).
Report on Diligence and Debtor Protection (Scot Law Com No 95)	14.11.85	In part by Debtors (Scotland) Act 1987 (c 18).
*Private International Law—Polygamous Marriages: Report on Capacity to Contract a Polygamous Marriage and Related Issues (Scot Law Com No 96)	8.8.85	None.
Obligations—Report on Civil Liability in relation to Animals (Scot Law Com No 97)	8.11.85	Animals (Scotland) Act 1987 (c 9).
*Statute Law Revision—Twelfth Report: Draft Statute Law (Repeals) Bill (Scot Law Com No 99) (Cmnd 9648)	14.11.85	Statute Law (Repeals) Act 1986 (c 12).
Evidence—Report on Corroboration, Hearsay and Related Matters in Civil Proceedings (Scot Law Com No 100)	22.5.86	Civil Evidence (Scotland) Act 1988 (c 32).
Report on Child Abduction (Scot Law Com No 102) (Cm 64)	12.2.87	None.
Housing (Scotland) Bill (Scot Law Com No 103) (Cm 104)	17.3.87	Housing (Scotland) Act 1987 (c 26)
*Report on Sale and Supply of Goods (Scot Law Com No 104) (Cm 137)	28.5.87	None.

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

<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
*Private International Law—Report on Choice of Law Rules in Marriage (Scot Law Com No 105)	2.7.87	None.
Report on Computer Crime (Scot Law Com No 106) (Cm 174)	23.7.87	None.
*Private International Law—Report on the Law of Domicile (Scot Law Com No 107) (Cm 200)	3.9.87	None.
Report on the Scottish Term and Quarter Days (Scot Law Com No 108) (Cm 208)	29.10.87	None.
Report on the Legal Capacity and Responsibility of Minors and Pupils (Scot Law Com No 110)	17.12.87	None.
Court of Session Bill—Report on the Consolidation of Certain Enactments and the Repeal of Other Enactments relating to the Court of Session (Scot Law Com No 111) (Cm 315)	9.3.88	Court of Session Act 1988 (c 36).
Report on Requirements of Writing (Scot Law Com No 112)	13.7.88	None.
*Road Traffic Bill, Road Traffic Offenders Bill, Road Traffic (Consequential Provisions) Bill—Report on the Consolidation of Certain Enactments relating to Road Traffic (Scot Law Com No 113) (Cm 390)	6.6.88	None.

