

# Contents

*Preface* ..... v  
*Contents* ..... vii  
*Table of Statutes* ..... xi  
*Table of Orders, Rules and Regulations* ..... xxv  
*Table of Conventions, etc* ..... xxvii  
*Table of Cases* ..... xxix

**Introduction** ..... 1

**Chapter 1   Getting married and registering a civil partnership**

Introduction ..... 7  
Engagements ..... 7  
The formalities of marriage ..... 10  
Regular marriages: formal marriages ..... 10  
Irregular marriages ..... 17

**Chapter 2   Legal impediments to marriage and civil partnership**

Introduction ..... 29  
Void marriages and civil partnerships ..... 29  
Voidable marriages ..... 30  
Capacity to marry and eligibility to enter a civil partnership ..... 30  
Defective consent ..... 43  
Voidable marriages: incurable impotency ..... 49

**Chapter 3   The legal consequences of marriage and civil partnership,  
              part I: general**

Introduction ..... 55  
Personal effects ..... 56  
Obligations ..... 58  
Income support ..... 63  
Aliment ..... 63  
Succession ..... 72

**Chapter 4 The legal consequences of marriage and civil partnership,  
part II: moveable**

Introduction .....	77
Wedding presents .....	79
Gifts between spouses and civil partners .....	79
Corporeal moveables bought by the spouses .....	80
Money and securities .....	87
Savings from housekeeping .....	88
Policies of assurance .....	90

**Chapter 5 The legal consequences of marriage and civil partnership,  
part III: the matrimonial and family home**

Introduction .....	91
The ownership of the matrimonial or family home .....	92
The occupation of the matrimonial or family home .....	96
Matrimonial and relevant interdicts .....	116
Mortgage Rights (Scotland) Act 2001 .....	119

**Chapter 6 Divorce and dissolution**

Introduction .....	121
Irretrievable breakdown of marriage or civil partnership .....	123
The grounds of divorce and dissolution .....	125
Judicial separation .....	138
Procedural matters .....	139

**Chapter 7 Financial provision on divorce and dissolution**

Introduction .....	143
The nature of the orders .....	145
The principles .....	150
Agreements for financial provision .....	184

**Chapter 8 Cohabitants**

Introduction .....	189
Cohabitation .....	189
Some legal consequences of cohabitation .....	191

## **Chapter 9 Parents and children**

Introduction .....	207
Establishing parentage .....	209
Blood tests and DNA profiling .....	214
Legitimacy and illegitimacy .....	218

## **Chapter 10 Children's legal capacity and rights**

Introduction .....	225
Legal transactions .....	225
Young persons over 16 but under 18 .....	229
Delictual liability .....	230
Marriage and domicile .....	231
Criminal liability .....	232
Specific age limits .....	232
Litigation .....	234
Aliment .....	235
The Child Support Act 1991 .....	242

## **Chapter 11 Parental responsibilities and rights**

Introduction .....	251
What are parental responsibilities and rights? .....	252
Who has parental responsibilities and rights? .....	256
Specific parental responsibilities and rights .....	262

## **Chapter 12 Actions in relation to parental responsibilities and rights**

Introduction .....	279
Title to sue .....	280
The nature of s 11 orders .....	284
The welfare principle .....	290

## **Chapter 13 Adoption**

Introduction .....	303
Adoption agencies .....	305
Welfare of children .....	306
Prospective adopters .....	308
Procedure .....	310
Parental consent .....	312
Permanence Orders .....	319
The Adoption Order .....	321

**Chapter 14 Children in need: duties and powers of local authorities**

Introduction .....	325
The duties of local authorities .....	327
The powers of local authorities .....	332

**Chapter 15 Children in need: emergency procedures and compulsory supervision orders**

Introduction .....	347
Emergency procedures: child protection orders .....	348
Compulsory supervision orders .....	354
Conclusion .....	379

**Appendix I Parenting Agreement for Scotland – Plan .....** 381

**Appendix II Charter for Grandchildren .....** 397

**Index .....** 401