



KIPPEN CAMPBELL LLP

FAMILY LAW BULLETIN

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I am delighted to say that I have been re-accredited as a Specialist in Family Law by the Law Society of Scotland, for a further period of five years. I have been accredited as a Specialist in Family Law by the Law Society since February 1997 and so in my nearly 35 years of practicing law I have been a Specialist for 25!

It has been a privilege (and sometimes a challenge) to represent many hundreds of individuals and help them navigate their way through separations, have contact with their children, adopt their children, dissolve their civil partnerships and assist with many other circumstances of family life.

My experiences over these years have caused me to reflect on the changes in Family Law since I commenced in practice. There have been many but the following come to mind most readily:-

1. "Aliment" (maintenance for children and spouses) - in the "old days" we could apply to the court for aliment payable by one parent to the other for children. Now of course the Child Maintenance Service (generally speaking) has sole jurisdiction.
2. The legal concepts of "Custody" and "Access" to children were revoked with the coming into force of the Children (Scotland) Act 1995 when the legal principles changed significantly and the concepts of 'residence' and 'contact' and equal 'parental rights and responsibilities' were put into law. Further changes are afoot in relation to the 2020 Act.
3. A father who was not married to the mother of his child or children at the date of their birth legally had no right to contact with the children, nor any parental rights and responsibilities, and had to apply to the court for them. The legislation changed so that fathers whose names are detailed on the child's birth certificate and who attended the registration of the birth automatically have parental rights and responsibilities in relation to the child.
4. The Family Law (Scotland) 2006 introduced legal rights for cohabitants to make financial claims upon their former cohabitant following their separation or death, albeit much restricted from the claims that can be made in terms of the Family Law (Scotland) Act 1985 as amended in relation to married couples or those in civil partnerships.

5. Pensions – at one time pension interests were rarely valued or divided fairly as matrimonial assets due to the practically cumbersome legal methods of dealing with them. Now pension interests private, state or occupational can be the most valuable of matrimonial assets for division and can be shared without ‘cash’ having to exchange hands and can provide each separated couple with a pension for their retirement. .

If anyone would like assistance and help on any of the above subjects please do not hesitate to get in touch.

Susan Wightman - Accredited by the Law Society of Scotland as a Specialist in Family Law and trained Collaborative Lawyer.

