ARNOT MANDERSON
ADVOCATES

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0131 260 5824

Year of Call

1993

Devil Masters

The Rt Hon. The Lord Keen of Elie KC
William Dunlop KC
Gordon Steele KC

Practice Profile

David is a specialist in commercial lease disputes. His experience includes rent review, notice-validity, irritancy, dilapidations, and tenancy of shops claims. From 2020 to 2025 he was the Scottish Law Commissioner leading the projects on the termination of commercial leases - which has led to the Leases (Automatic Continuation etc) (Scotland) Bill, and on the Tenancy of Shops (Scotland) Act. He has also acted as an arbitral-tribunal appointed expert on a rent review clause.

His lease expertise extends beyond the commercial sphere. In the residential sector he chaired tribunals from the First-tier Tribunal's Housing and Property Chamber from 2010 to 2020. He has also advised on agricultural leases, particularly for farming partnerships and inheritance and valuation of crofts.

Commercial work has also included partnership-related disputes (e.g. partnership break-down and termination), insolvency (e.g. disputes over assets covered by insolvency, insolvency practitioners' adjudications etc), and sale of machinery, vehicles or services. David has also observed on how Scots law deals with digital assets such as cryptocurrency and commented on proposed reforms.

David has dealt with many complex property-related disputes extending from purchaser/seller disputes over commercial missives, access and water supply rights (e.g. servitudes), to neighbour disputes involving development (e.g. real burden or nuisance) and over boundaries (including rectification of titles). He has advised on rating valuation and council tax liability.

His extensive litigation experience covers all civil Scottish courts from sheriff to UK Supreme Court and various tribunals including the Lands Tribunal.

David is keenly interested in arbitration. A Fellow of the CIArb and co-author of "Dundas & Bartos on the Arbitration (Scotland) Act 2010" (2 Edns), he has acted as arbitrator of commercial disputes. He has arbitrated holiday travel arbitrations since 2019 and is on the ABTA Panel of arbitrators.

Education & Professional Career to Date

Year of devilling: 1992/93
Year of call:1993
Fellow of Chartered Institute of Arbitrators: 2008

Professional career before coming to Bar:
1991/92 Legal Assistant to the Lord President (Lord President Hope)
1989/91 Trainee solicitor, Bishop & Robertson Chalmers (now Brodies)
Degrees: University of Edinburgh LLB (Hons) (First Class), Lord President Cooper Memorial Prize

Selected Cases

- **Lease-related decided cases**
- **Arbitration Appeal (No. 2 of 2019) [2020] CSOH 51**
  Commercial tenant with mixed success in commercial rent review arbitration seeking correction of award (sole counsel)
- **Arbitration Application 1 of 2013 [2014] CSOH 83**
  Commercial tenant of hotel with rent review-arbitrated valuation of 802.5k/annum seeking setting aside of award (with QC)
- **Mackay v Mackay 2018 SLT (Sh Ct) 233**
  Revaluation of crofting tenancy inherited by competing beneficiaries
- **Carpetright plc v Caledonian Property Investments Ltd (unreported, Sheriff Swanson, Glasgow Sheriff Court, May 2, 2017)**
  Retail tenant seeking extension of lease beyond termination date under Tenancy of Shops (Scotland) Act 1949
- **Crisp Investment Partnership LLP v. H England (Holdings) Ltd (unreported, Sheriff Holligan, Edinburgh Sheriff Court, November 4, 2013)**
  Termination of commercial lease by tenant's notice; dilapidations claim (sole counsel)
- **Commercial/Insolvency-related decided cases**
- **Dooneen Ltd (t/a McGinness Associates) v Mond [2018] UKSC 54; 2018 SLT 1255**
  Claims firm/discharged insolvent under trust deed for creditors, seeking award of PPI compensation vesting in them after termination of trust deed (sole counsel in Court of Session [2016] CSIH 59, with QC in UKSC)
- **First Time Ltd v Liquidator of Denmore Investments Ltd [2017] SAC (Civ) 4**
  Liquidator seeking to prevent creditor of insolvent guarantor claiming in liquidation - claim that guarantee was voidable as a "gratuitous alienation" by the guarantor (sole counsel)
- **Property-related decided cases**
- **Forbo-Nairn Ltd v Murrayfield Properties Ltd [2009] CSIH 94**
  Interpretation of commercial missives selling commercial property - whether 3rd party bound (sole counsel)
- **Lundin Homes Ltd v Keeper of the Registers of Scotland 2013 SLT (Lands Tr) 73**
  Appeal against Keeper's exclusion of indemnity upon land registration - development site (sole counsel)
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Rennie v Cullen House Gardens Ltd (unreported, Lands Tribunal, LTS/TC/2011/09, June 29, 2012)
Attempt to vary real burden so as to build in grounds of historic country house/castle (sole counsel)

Areas of Practice

- Commercial
- Property

Publications & Seminars

Scottish Law Commission : "Report on Aspects of Leases: Termination" (No. 260, 2022) (lead Commissioner & co-author)

Scottish Law Commission : "Report on the Tenancy of Shops (Scotland) Act 1949" (No. 267, 2025) (lead Commissioner & co-author)

SLC proposals on termination of lease law reform: lectures to CLT Commercial Property Seminar (March 2024, March 2025)

"Dundas & Bartos on The Arbitration (Scotland) Act 2010" (2nd ed., 2014) (co-author in both 2010 and 2014 editions)

"Cryptocurrency Intermediaries: Scottish trustees?" : lecture to Univ of Aberdeen Digital Assets Workshop (May 2024)

Bartos & Meston on The Succession (Scotland) Act 1964 (6th ed., 2015)

Directories

"approachable, communicative and knowledgeable" Legal 500 (2016)
"incisive and conscientious" Legal 500 (2017)

Additional Information

Fellow of the Chartered Institute of Arbitrators 2008

References on arbitrator work:
"Many thanks for your prompt and careful attention to matters throughout."
Comments of one party

"I would concur with [these] sentiments regarding the way the arbitration has been handled and in my view this has provided an effective way of settling our dispute."
Comments of opposing party

Fluent in Czech (including on legal matters)