

HOUSE OF LORDS

SESSION 1998–99  
56th REPORT

APPEAL COMMITTEE

**UNDUE INFLUENCE**

REPORT

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*Ordered to be printed 21 July 1999*

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LONDON

(HL Paper 95)

# FIFTY-SIXTH REPORT

from the Appeal Committee

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21 JULY 1999

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## ORDERED TO REPORT

1. Since November 1998, the Appeal Committee have reported to the House on seven petitions for leave to appeal on the same point of law: the circumstances in which a wife or partner who charges her home with the debts of her husband or partner can set aside the charge on the ground of undue influence. The Court of Appeal rejected the seven appeals and allowed the charges to be enforced.

2. The cases concerned are:

Royal Bank of Scotland *v.* Etridge—11th November 1998 (leave refused)

Loftus and another *v.* Etridge and another—11th November 1998 (leave refused)

Barclays Bank plc *v.* Harris and another—19th May 1999 (leave given)

National Westminster Bank *v.* Gill—19th May 1999 (leave given)

UCB Homes Loans Corporation Ltd *v.* Moore—19th May 1999 (leave given)

Midland Bank plc *v.* Wallace and another—14th June 1999 (leave given)

Governor and Company of the Bank of Scotland *v.* Bennett—9th July (leave given)

3. Another case on the same point of law, *Lloyds Bank plc v. Lucken*, has been heard in the Court of Appeal, but neither side has petitioned for leave to appeal to the House.

4. The petitions for leave to appeal were considered separately and at different times. Each petition was considered on its merits and determined without a hearing. The Committee recommended (and the House ordered) that leave to appeal be refused in the first two petitions which came before them and that leave be granted to the other petitions. In May 1999 it became evident that the number of cases coming forward on this area of the law warranted the House revisiting it. Accordingly, we now consider that it would be inappropriate for the first two cases (those of Mrs Etridge) to go unheard. We understand that the respondents to the two petitions do not object to the granting of leave at this stage.

## RECOMMENDATION

5. In these circumstances, therefore, the Committee recommend that the Orders made pursuant to the 99th Report (Session 1997-98) of the Appeal Committee on 11th November 1998, relating to the petitions for leave to appeal in the Cause *Royal Bank of Scotland (Respondents) v. Etridge (A.P.) (Petitioner)* and in the Cause *Loftus and others (Respondents) v. Etridge (A.P.) (Petitioner) and another*, be vacated; and that leave to appeal be given.