26 October 2006

Dear Consultee,

DISCUSSION PAPER ON THE NATURE AND THE CONSTITUTION OF TRUSTS (DISCUSSION PAPER NO 133)

We invite comment on the above mentioned discussion paper which has been published today.   The related news release is also available on our website.

The Commission's function is to recommend ways of simplifying, updating and improving Scots law. The outcome of any law reform project is the submission to the Scottish Ministers – or the UK Government where the area of law in question is a matter for the Westminster Parliament – of a report setting out in detail our recommendations for reform. We usually append a draft Bill which offers a basis for any legislation implementing our recommendations.

In order to ensure that our recommendations, if implemented, would result in law which is just, principled, responsive and easy to understand, it is critical for the Commission to engage in a thorough and open process of consultation. We therefore welcome the views of as many people as possible, whether from an academic perspective or based on a day-to-day practical experience of the area under review.

Our usual approach to consultation – and to a law reform project in general – involves the preparation of an initial discussion paper. This sets out the current law on the topic in question, describes and analyses any problems with it, details possible options for change and seeks to elicit views from consultees on the preliminary proposals made. Discussion papers are circulated to those identified as having an interest in the topic and are also published on our website (www.scotlawcom.gov.uk). News releases are also issued to draw attention to the consultation. Once the deadline for responding has passed, a careful analysis of all responses is carried out. The proposals in the discussion paper are measured against the public response and this can lead to a period of further thought and research before final decisions are made and the report published.

Accordingly, we invite your views on any or all of the proposals in this discussion paper. Even if you agree with our proposals but do not wish to make any further comments, a brief note to that effect would also be most helpful as an indication that our proposals are on the right lines. Where possible, we would prefer the electronic submission of comments. For example, you can use the downloadable electronic response form for this discussion paper on our website at http://www.scotlawcom.gov.uk/html/discussion_papers.html#dp133. The MS Word form has a questionnaire format which allows you to comment – briefly or at length – on any of the paper's proposals which interest you. The form can be downloaded and emailed to us at info@scotlawcom.gov.uk, as can comments composed in other electronic formats. Alternatively, you may prefer to send your comments on the discussion paper by using the general comments form to be found on the website Contact page (http://www.scotlawcom.gov.uk/html/contact.html). Please note that the consultation process for this project will conclude on **31 January 2007**; accordingly, we would be grateful if comments were submitted by then.

We draw to your attention the fact that (a) responses will be attributed and summarised on our website; (b) the names of all respondents will be listed in the final report following from this consultation; (c) some or all responses and the names of those who submitted them may be referred to and/or quoted in the final report following from this consultation or in other Commission publications; and (d) responses will be made available to a third party on

request **unless** you specifically ask that any of the material referred to above, or any part of it, should be treated as confidential or we otherwise consider that it should be treated as confidential. Any third party request for access to a confidential response will be determined in accordance with the Freedom of Information (Scotland) Act 2002.

Finally, should you wish to offer any comments on the way in which we conduct our consultation exercises, we would be pleased to hear from you.

Yours sincerely,

MICHAEL LUGTON

Chief Executive