

10 July 2017



Your ref:
Our ref: L/1/8/6A

Dear Consultee

DISCUSSION PAPER ON REMEDIES FOR BREACH OF CONTRACT (DISCUSSION PAPER No 163)

We invite comments on our Discussion Paper on Remedies for Breach of Contract which has been published today on our website.

The Discussion Paper reviews remedies for breach of contract in Scots law in light of the Draft Common Frame of Reference (DCFR), a model law compiled by a large group of lawyers from across the European Union that was published in 2009. It forms part of our wider review of contract law in light of the DCFR, and it is our fifth and final Discussion Paper on the topic.

In the Discussion Paper, we outline the concept of breach of contract and the remedies for it, both in Scots law and under the DCFR. We also assess what progress has been made in the area since we last reported on it in 1999.

A key policy objective in preparing the Discussion Paper has been to identify ways in which the law of remedies for breach of contract could usefully be clarified and made more comprehensible. The existence of self-help remedies in Scots law (that is, remedies that the parties may exercise without the intervention of the courts) makes it particularly important that this area of the law should be easily accessible and comprehensible to people entering into contracts. As a result, we are particularly interested in consultees' views on the possibility of reforming terminology.

The Discussion Paper also seeks to explore a number of areas where, due to the size of the jurisdiction, Scots law has not developed markedly since we last considered remedies for breach of contract. Again, we suggest that there are opportunities to make the law clearer and more accessible for people who enter into contracts, their legal advisers and the courts.

Consultation is critical in all our law reform projects to ensure that the final recommendations contained in our report would, if implemented, result in law which is just, principled, responsive and easy to understand. We would therefore be grateful to receive your views on any or all of the questions in this Discussion Paper. They will be fully considered and analysed in the course of reaching our final conclusions. The consultation period ends on **6 October 2017**.

Where possible, we would prefer the electronic submission of comments. You can use the electronic response form for this Discussion Paper on our website at <http://www.scotlawcom.gov.uk/publications/discussion-papers-and-consultative-memoranda/2010-present/>. The form has a questionnaire format which allows you to comment on any of the paper's questions which interest you. The form can be downloaded and emailed to us at info@scotlawcom.gsi.gov.uk, as can comments 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 us page (<http://www.scotlawcom.gov.uk/contact-us/>).

Please note that information about this Discussion Paper, including copies of responses, may be made available in terms of the Freedom of Information (Scotland) Act 2002. Any confidential response will be dealt with in accordance with the 2002 Act. We may also (i) publish responses on our website (either in full or in some other way such as reformatted or summarised); and (ii) attribute comments and publish a list of respondents' names.

Yours faithfully

MALCOLM MCMILLAN
Chief Executive