

28 March 2014



Your ref:
Our ref: L/1/8/9A

Dear Consultee,

**REVIEW OF CONTRACT LAW:
DISCUSSION PAPER ON THIRD PARTY RIGHTS IN CONTRACT (DP NO 157)**

We are pleased to announce that our Discussion Paper on Third Party Rights in Contract has been published today. We invite comment on it.

The paper outlines the current law of third party rights in Scots law and considers why reform may be necessary. We address the nature of third party rights and discuss the appropriate terminology for use in any proposed reform. The final chapters deal with, *inter alia*, the requirements of identification and intention, the central issue of irrevocability, and the relationship between the proposed general rule on third party rights and specific third party rights recognised elsewhere in the law. A number of innovative proposals are made.

An electronic version of the Discussion Paper is available on our website (www.scotlawcom.gov.uk), together with a news release and an electronic response form. Further information about the project can also be found on our website at <http://www.scotlawcom.gov.uk/law-reform-projects/contract-law-in-light-of-the-draft-common-frame-of-reference-dcf/>.

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. 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 and questions 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. You can use the **downloadable 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 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/contact-us>). Please note that the consultation process for this project will conclude on **Friday 20 June 2014**.

Please also 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 that Act. We may also attribute comments and publish a list of respondents' names.

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 faithfully,

MALCOLM MACMILLAN
Chief Executive