

15 May 2014

Lord Faulks QC  
Minister of State for Justice  
102 Petty France  
LONDON  
SW1H 9AJ



Your ref: 7726  
Our ref: A/5/22/1B

*Dear Lord Faulks,*

## **PROGRESS ON IMPLEMENTATION OF SCOTTISH LAW COMMISSION REPORTS IN RESERVED AREAS OF SCOTTISH LAW**

Thank you for your letter dated 8 May 2014, providing an update on progress in implementing the recommendations of the Scottish Law Commission relating to reserved areas of Scots law. I note that your report covers the period from 12 January 2013 to 11 January 2014.

I should perhaps mention that I was appointed as Chairman of the Scottish Law Commission, with effect from 1 January 2014. I succeeded Lady Clark of Calton, to whom your letter was addressed.

I write to put on the record a couple of further important points with regard to progress in implementing recommendations of the Scottish Law Commission.

This Commission was pleased that the Partnerships (Prosecution) (Scotland) Act 2013 received Royal Assent on 25 April 2013. This Act followed on from a Scottish Law Commission Report in December 2011 on a reserved area of Scots law, namely the criminal liability of partnerships. The successful passage of the Bill reflected a close working relationship between this Commission, the Advocate General for Scotland, and the Scotland Office. I am particularly grateful to the Advocate General for Scotland for his leadership in promoting this Bill, the first Bill for Scotland emanating from the Scottish Law Commission alone to use the special House of Lords procedure for Law Commission Bills. This, we believe, represented a significant achievement.

I take this opportunity to draw attention also to the as yet unimplemented recommendations of this Commission in our Report on Unincorporated Associations, published in November 2009. The Scotland Office undertook a consultation on the proposals in April 2012, at the same time as consulting on the proposals on the criminal liability of Scottish partnerships. Consultees were broadly supportive of the proposals on unincorporated associations. This area of Scots law is undoubtedly in need of reform, and the Commission would wish to encourage further work by the UK Government on the proposals with a view to bringing forward a Government Bill in due course.

In your letter you referred to the recommendations of the Commissions in the joint Report on Partnership Law in 2003. I note that you do not intend to implement the proposals to reform the law of general partnerships as regards England and Wales. This does, however, leave it open to the UK Government to consider the implementation of these recommendations for Scotland alone. The Commission would wish to encourage further work by the UK Government to this end, with a view to implementing the Commissions' recommendations for Scotland.



The joint Report by the Law Commission for England and Wales and the Scottish Law Commission on Consumer Redress for Misleading and Aggressive Practices is also mentioned in your letter. I appreciate that implementation fell outwith the period covered by your current report, but I was nevertheless pleased to note that the Regulations to implement proposals in the Report were made on 31 March 2014, namely the Consumer Protection (Amendment) Regulations 2014.

I am copying this letter to the Chairman of the Law Commission for England and Wales, Lord Justice Lloyd Jones, the Secretary of State for Scotland, and the Advocate General for Scotland.

*Yours sincerely,  
Paul Beckett*

**LORD PENTLAND**