

Professor Hector MacQueen
The Scottish Law Commission
140 Causewayside
EDINBURGH
EH9 1PR



29 August 2014

Dear Sir

DEFAMATION LAW REFORM

We are writing to ask that the Scottish Law Commission consider reviewing the law on defamation in Scotland.

As you will no doubt be aware, in April 2013 the Defamation Act 2013 was enacted and it came into force in England and Wales on 1 January 2014. However, the Act did not extend to Scotland. This has led to a difference in defamation law between Scotland and England, leading to concerns about the possibility of Scottish defamation law undermining freedom of expression, consumer protection and corporate scrutiny. A letter written by Robert Sharp, addressing these issues was published in the Herald on 17 July 2014. A copy of the letter is enclosed for information.

Our firm acts for clients both pursuing or defending defamation actions or seeking related advice in advance of such actions. The legislation available in this area is therefore imperative to the advice that we offer our clients. Scottish defamation law is now primarily governed by the Defamation Act 1996, an act designed for the UK in its entirety and no longer appropriate following the transformation in the way the world communicates over the last two decades. The Defamation Act 2013 modernises defamation law and makes major changes such as creating a single publication rule, providing for a defence for operators of websites and codifying the Reynolds defence.

Defamation is admittedly a niche area of law. However, it is becoming increasingly important in light of the internet and social media era. It applies not only to media professionals but also to individuals who now publish on a daily basis. Defamation law continues to balance Articles 8 and



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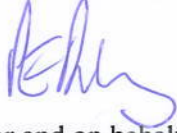
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10 of the European Convention on Human Rights, so it is vital to continually review this area. Whilst Scotland does have a separate legal system to that of England and Wales, Scottish defamation law should not be left deficient and outdated. Now would appear to be a prime time for a thorough review of Scottish defamation law.

Yours faithfully



for and on behalf of Burness Paul LLP

