



**CONSULTATION BY DEPARTMENT FOR BUSINESS ENTERPRISE  
AND REGULATION REFORM:**

**REFORM OF LIMITED PARTNERSHIP LAW**

**CONSULTATION RESPONSE BY  
SCOTTISH ESTATES BUSINESS GROUP**

**1. BACKGROUND**

The Scottish Estates Business Group (SEBG) represents a group of progressive land-based estates with significant agricultural and rural business interests. It aims to promote a modern business approach in the management of Scotland's land resource in ways which deliver social, economic and environmental benefits. The group seeks to secure a sustainable and prosperous future for rural areas.

Estates are proven business models that assist the development of smaller rural businesses, and landowners and estates have a vital role to play in the ongoing and future development and prosperity of Scotland. SEBG is committed to rural economies and its members work hard across Scotland to stimulate enterprise and economic development.

**2. OVERVIEW**

SEBG appreciates the opportunity to respond to the Westminster Government's proposals to modernise and simplify the law on limited partnerships. It recognises and appreciates the intent behind the proposals to remove doubt and bring clarity to the way in which a Limited Partnership may operate. However, the Group has concerns that the proposals as set out, whilst aimed at ensuring the UK's legislative framework continues to facilitate and enable investment funds to use Limited Partnerships as appropriate vehicles, may have unintended and negative consequences for a group of arrangements which are not the primary target of these proposals, namely certain agricultural tenancies used across rural Scotland.

The Scottish Rural Property and Business Association, with which SEBG works closely on a number of issues of common concern, is submitting its own detailed response to the proposals in this consultation so SEBG's own response does not intend to replicate the detailed technical points the SRPBA submission makes. However, the Group wishes to commend the SRPBA response as encapsulating the views of SEBG Members, and makes the following general comments on the consultation's proposals in support of SRPBA's responses to the specific questions posed in the consultation.

# S | E | B | G

As the SRPBA submission points out, no Limited Partnerships have been created for agricultural leases in Scotland since the enactment by the Scottish Parliament of the Agricultural Holdings (Scotland) Act 2003. However, a significant number pre-date that legislation and continue to operate in Scotland as tenants of agricultural leases and form the basis for many rural businesses across the country. It is in the nature of such rural businesses that the Limited Partner can be the party which contributes a significant proportion of business capital, with the General Partner's contribution being the day-to-day management of the leased land.

It is of particular concern to SEBG that the transitional arrangements set out in the Reform of Limited Partnership Law proposals carry a potential risk to the interests of Limited Partners – as identified in the consultation document. Under the proposed new arrangements, it would be for the General Partner to comply with the requirement to re-register the Limited Partnership, but should he fail to do this, then the de-registration of the Limited Partnership by the registrar could have serious financial implications not only for the Limited Partner, but also for the continuance of the agricultural tenancy itself, through no fault of his own. To avoid this risk, SEBG would urge that instead of the duty to re-register falling to the General Partner, it should be open to either the General or the Limited Partner to fulfil this obligation.

SEBG is also concerned that the proposals have the scope to cut across the rights and responsibilities of parties to a Limited Partnership as set out in the Agricultural Holdings (Scotland) Act 2003. The stated aim of the proposals is inter alia to “remove doubts about the way in which a limited partnership may operate” but, we would argue, its implications for parties to a Limited Partnership to which the Agricultural Holdings (Scotland) Act 2003 applies would be to do the opposite and could work against the rights and responsibilities of parties to agricultural tenancies as brought into legislation by the Scottish Parliament in that Act. We would urge that BERR pursue this concern directly with the Scottish Government.

Finally, SEBG questions whether a Legislative Reform Order (LRO) is an appropriate vehicle for the bringing into force of the proposed changes to the law as it relates to Limited Partnerships. According to the consultation document, a Minister can make an LRO for the purpose of “removing or reducing any burden, or the overall burdens, resulting directly or indirectly for any person from any legislation”. However, as set out above, the practical effect of the proposals on a Limited Partner involved in a Scottish agricultural tenancy could be to increase potential exposure to financial loss and have implications for the rights of parties to a Limited Partnership as conferred by the Agricultural Holdings (Scotland) Act 2003. Rather than “removing or reducing any burden”, the proposals could deliver the opposite effect.

**SEBG**  
**20<sup>th</sup> November 2008**

SCOTTISH ESTATES BUSINESS GROUP

**Chairman:** Sir Alastair Gordon Cumming

**Deputy Chairmen:** Sandy Lewis, Seafield Estates and Stuart Young, Dunecht Estates

**Head Office:** 27 Silvermills Court, Henderson Place Lane, Edinburgh EH3 5DG

Tel: 01620 861898 Email: [pollymcperson@sebg.org](mailto:pollymcperson@sebg.org)