

## From the President



15 January 2013

Dear Member of the House of Lords,

### **Clause 27 of the Growth and Infrastructure Bill: Employee Shareholder Status**

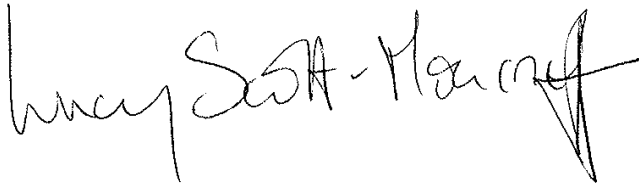
The Law Society is concerned about the proposals to implement an employee shareholder status, contained within Clause 27 of the Growth and Infrastructure Bill currently before your Lordships' House. The proposals, which were subject to an inadequate three week consultation period, are, as presently drafted, flawed and will likely lead to more red tape, rather than less.

The Society will be issuing a detailed clause-by-clause briefing on the provisions within the Growth and Infrastructure Bill ahead of the Bill's Committee Stage, but I wanted to take this opportunity to highlight the Society's unease about the current proposals and the Government's approach to their implementation. In particular:

- The Society expects that small businesses, which are the prime target audience for the proposal, will be unlikely to adopt the status as it brings with it more, rather than less, red-tape in the form of complex tax and company law requirements.
- It is likely that the new status will cause substantial confusion for employers at the outset, but particularly on the termination of an employee's contract. There is potential for costly satellite litigation on a range of complex issues which are likely to arise at the outset and upon termination of an employee's contract. For example, if an employer buys back forfeit shares when an employee leaves, satellite litigation could ensue on the question of market value. This runs counter to the Government's stated aim of supporting small and medium sized enterprises through simpler regulation.
- The decision to restrict an employee shareholder's access to maternity rights and flexible working are entirely incongruent with the Government's stated commitment to family friendly policies. The proposals are likely to have a discriminatory impact as employers may not be aware of the interaction between these forfeited rights and those rights governed by domestic legislation which will still apply to them. Employers would have to take these into consideration in order to avoid allegations of indirect sex discrimination.
- Peers may also wish to consider whether the Government has undertaken an adequate assessment of the proposal's likely costs and consequences. The Society does not consider that the restricted period of consultation on this proposal was a constructive way of engaging with stakeholders. It is unrealistic to provide interested parties with only three weeks within which to respond to a consultation on what are complex issues covering a number of areas of law.

Considering these criticisms of the proposals as currently presented, the Society recommends that Peers vote to remove the Clause from the Bill.

Yours sincerely,

A handwritten signature in black ink, reading 'Lucy Scott-Moncrieff'. The signature is written in a cursive style with a large initial 'L' and a stylized 'M' at the end.

Lucy Scott - Moncrieff  
President