



The Scottish Parliament
Pàrlamaid na h-Alba

PUBLIC PETITION NO.

PE01672

Name of petitioner

Hugh Paterson

Petition title

Scottish Law Commission Report on Prescription

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to consider remedial action in terms of the law relating to prescription and limitation.

Action taken to resolve issues of concern before submitting the petition

I have approached -
The Law Society of Scotland
The Scottish Law Commission
Ruth Davidson MSP and John Scott MSP

Petition background information

It has been brought to my attention that if a client is holding a defective property title and this does not come to light until 20 years after conveyancing then the client and not their solicitor or insurer, is liable to suffer 100% loss, a potentially disastrous situation.

This issue is highlighted in para 6.3 of the Scottish Law Commission's discussion paper on the Prescription and Limitation [Scotland] Act 1973 where a party did not have good title to their house.

It is my opinion that solicitors cannot be held liable in perpetuity but there needs to be some security for title deed holders outside the 20 year period. At the very least clients should be advised by their solicitor of this very important prescription period and

recommend a course of protection eg additional insurance or a rechecking of title before the 20 years expires. A fresh prescription period would then commence. Costs would be for the client and it would be their decision whether or not to cover their unprotected exposure to the risk that their title deeds may be worthless.

I have raised this issue with the Scottish Law Commission in response to the Discussion paper on the Prescription and Limitation [Scotland] Act 1973.

The Scottish Law Commission responded to my submission stating that they had discussed this matter at length and have sympathies with people affected by this issue. However it is the Commission's current view that "it would be inappropriate to make any recommendation that the law be changed so as to address this issue".

While I appreciate the time and effort given by the Scottish Law Commission to this issue, the fact remains this is an unsatisfactory state of affairs where the Scottish Public cannot trust the integrity of title deeds. The issue remains unresolved and could result in a family losing their home.

The Scottish Law Commission Report on Prescription July 2017 will come before the Scottish Parliament in the near future.

With regard to my own experience on this issue, in 1990, my wife and I purchased a property plus approximately four acres of land. The conveyancing was undertaken by a firm of Edinburgh solicitors since amalgamated with another firm of Edinburgh solicitors. However when the Registers of Scotland were approached to convey the title to the new purchaser in 2013, when the property was sold, we were advised that other parties had title to some of the land. Not surprisingly the purchaser dropped the price.

The solicitors were advised on 27 May 2013, and they made a token offer which we rejected. We spent a great deal of time and money on this matter, and eventually in December 2013, some six months later, they advised that the claim was being rejected by reason of "Prescription and Limitation [S] Act 73 section 7[2].

Over the past years we have been involved in five purchases and sales of property and with this sale it was the first time we were made aware of the 20 year prescription period. If we were not acquainted with this with our experience of property transactions, then it is safe to assume that the Scottish public is no better informed.

Unique web address

<http://www.parliament.scot/GettingInvolved/Petitions/prescriptionandlimitation>

Related information for petition

Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

YES

How many signatures have you collected so far?

0

Closing date for collecting signatures online

10 / 10 / 2017

Comments to stimulate online discussion

1. Do you support urgent action being taken to provide security for title deed holders 20 years after conveyancing? If there is a defect, you may lose your home.
2. Have you had similar experiences?