

Citizen Participation and Public Petitions Committee

7th Meeting, 2021 (Session 6), Wednesday
17 November 2021

PE1860: New legislation for Prescription and Limitation Act

Note by the Clerk

PE1860: Lodged 03/03/21

Petitioners	Jennifer Morrison Holdham
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to amend the Prescription and Limitation Act to allow retrospective claims to be made.
Webpage	petitions.parliament.scot/petitions/PE1860

Introduction

1. This is a continued petition that was last considered by the Committee at its meeting on [1 September 2021](#).
2. At that meeting the Committee agreed to write to the Scottish Government to request an indication of the number requests courts have received to override the principal limitation time limits and how often the courts exercised this discretion.
3. A response has been received from the Minister for Community Safety. Members may wish to note the [SPICe Briefing](#) for this petition.

Scottish Government submission

4. In her submission, the Minister states that while section 19A of the Prescription and Limitation (Scotland) Act 1973 allows the courts discretion to override the principal limitation time limits, the Scottish Government does not collect information about when the Courts have exercised such discretion.

5. The Minister also contacted the Scottish Courts and Tribunals Service (SCTS) to ascertain whether it collects such figures. The SCTS confirmed that, as the information is held in a court interlocutor, which SCTS are unable to interrogate, it cannot provide the data as requested.

6. The submission ends by explaining that the majority of these types of civil cases are likely to be initiated within the 3-year time limit. It will only be in a few cases that a court would ever have to consider whether to use its equitable discretion to dis-apply a time limit.

7. In addition, a number of cases may settle either after an action is initiated in court or before. As such, a court would not have to consider exercising its discretion.

Action

8. The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

Annexe

The following submission is circulated in connection with consideration of the petition at this meeting -

[PE1860/C: Minister for Community Safety submission of 6 October 2021](#)