

Petitioner submission of 10 October 2022

PE1973/B: End the use of Sheriffs Discretion when ruling on civil cases and provide clear legal guidance on division of assets

Unfortunately, what the Scottish Government claim under the provisions of the Family Law (Scotland) Act 2006 is not what is happening in reality.

Where division of assets are not clearly defined in law, there is too much room for argument by competing solicitors, and where a sheriff has the rule of law wrong, an appeal is likely to be unsuccessful due to their use of Sheriffs Discretion. This allows a sheriff to rule on how they feel rather than what is fair, true, and just.

This also allows the potential for a sheriff to favour one solicitor or client over another, as they appear to be able to do what they like. The system, in its current form, could lead to corruption or the integrity of the court system being undermined.

I would not have raised this petition if there was not a problem.

When it comes to making progress on this issue, I am bewildered as to why it is taking so long to sort this out. It feels to me like everyone is passing the buck and claiming it is the responsibility of another organisation.

I am pleased, however, to note the report from the Scottish Law Commission will be published by the end of 2022.