



Scottish Law Commission

promoting law reform

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ISSUED ON BEHALF OF THE SCOTTISH LAW COMMISSION

NOT FOR PUBLICATION OR BROADCAST

BEFORE 0001 HOURS ON 9 DECEMBER 2010

DISCUSSION PAPER ON PRESCRIPTION AND TITLE TO MOVEABLE PROPERTY (DISCUSSION PAPER NO 144)

The Scottish Law Commission today publishes a Discussion Paper on “Prescription and Title to Moveable Property.” This is about the way that the running of time affects title to things such as antiques and artwork.

If a museum or a collector – or indeed anyone – possesses (eg) a painting by Picasso, for many years, but on a questionable title, should there eventually come a time when the title becomes unchallengeable? (The law applies to objects of any kind, but most objects do not have a long lifespan, and few have a value that is both substantial and enduring, so in practice the issues arise predominantly for art and antiquities.)

At present the law in this area is not clear. In most other countries the question has a clear and affirmative answer.

The Commission analyses the current law, suggests possible reform options, and invites views.

Professor George Gretton, the lead Commissioner on the project, said:

“Does the passage of time convert possession of an object into ownership? Nobody knows. The law in this area is a mess and it is high time that it was sorted out. If other legal systems can sort it out, so can we.”

The Commission welcomes comments by 11 March 2011.

NOTES TO EDITORS

1. The Scottish Law Commission was set up in 1965 to promote the reform of the law of Scotland. The Chairman is the Hon Lord Drummond Young, a Court of Session judge. The other Commissioners are Laura J Dunlop QC, Professor George L Gretton, Patrick Layden QC TD, and Professor Hector L MacQueen. The Chief Executive is Malcolm McMillan.
2. Further information can be obtained by contacting Alastair Smith, Scottish Law Commission, 140 Causewayside, Edinburgh EH9 1PR (Tel: 0131 668 2131, Fax: 0131 662 4900, email: info@scotlawcom.gsi.gov.uk).
3. The paper may also be viewed on our website at www.scotlawcom.gov.uk or purchased from TSO (www.tsoshop.co.uk).