



PUBLIC PETITION NO.

PE01633

Name of petitioner

Bill Alexander

Petition title

Private Criminal Prosecution in Scotland

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to change the law to give the people of Scotland the same legal rights as the rest of the UK by removing the requirement that the Lord Advocate must first give permission before a private criminal prosecution can be commenced in Scotland.

Action taken to resolve issues of concern before submitting the petition

I have written to the Scottish Government, the Crown Office Procurator Fiscal Service, Police Scotland, and the Health and Safety Executive.

Petition background information

As matters currently stand if the Health and Safety Executive (HSE) decides that it will not provide a report to the Crown in Scotland on an accident at work, legally there is nothing anyone in Scotland can do. The Lord Advocate in Scotland can direct Police Scotland to carry out an investigation, but has no powers to direct the HSE to carry out an investigation as they are a reserved body. Without a report the Crown cannot prosecute, so in effect there is no remedy for the victim. This anomaly would be cured by this petition and would ensure access to justice by giving the facility for a private criminal prosecution in the event that the HSE declined to provide a report. With the ability to bring a private criminal prosecution in a more straightforward manner, then employees, trade unions, or other interested parties could decide, where appropriate, to seek an a criminal sanction, for example, in instances where perhaps a company had ceased trading, but there had been an accident.

There is another potential justification in support of this petition, and it is this. If there is any suggestion that the involvement of the Lord Advocate in directing reporting agencies might impact on their independence, then there has to be a safeguard by giving the right to bring a private criminal prosecution without the Lord Advocate giving permission. The HSE director in Scotland, Mike Cross has suggested that giving the Lord Advocate the power to direct the HSE to carry out an investigation should not be granted, as it might "undermine HSE's independence". Does this mean that Police Scotland as a reporting agency might not be independent when they are directed to produce a report for the Crown? In my opinion, the HSE position is patently absurd, however, in all fairness, Mr Cross might actually have evidence to support the

statement. If true, it could cast doubt on the ability of Police Scotland to be independent in certain situations, and therefore provide further support for the need of the removal of the involvement of the Lord Advocate in the existing process.

Unique web address

<http://www.parliament.scot/GettingInvolved/Petitions/PE01633>

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

19 / 01 / 2017

Comments to stimulate online discussion

A petition to give the people of Scotland the same rights that exist elsewhere in the United Kingdom in regard to private criminal prosecutions.