



the **doj & cd**

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA



EMBARGO: FOR IMMEDIATE RELEASE

MEDIA STATEMENT: SA LAW REFORM COMMISSION: RELEASE OF REVISED DISCUSSION PAPER 147 ON PROJECT 125: PRESCRIPTION PERIODS

The SA Law Reform Commission (Commission) is an independent statutory body mandated in terms of section 4 of the South African Law Reform Commission Act, 1973 (Act 19 of 1973) to research all branches of the law of South Africa, to study and investigate such laws and to make recommendations for the development, improvement, modernization or reform thereof. The research and support component of the Commission is located within the Secretariat, a chief directorate falling under the branch: Legislative Development: Department of Justice and Constitutional Development.

In line with its powers, the Commission has, over the years, been engaged in the investigation of various aspects of prescription, a law aimed at promoting certainty and finality, the timeous exercise of rights and the prompt adjudication of disputes.

Long regarded as a complex area of the law, prescription, in addition, embodies a system that is inherently limiting of rights. Its effect on ordinary people thus, living in a country where poverty and illiteracy are prevalent, where cultural and language barriers are pronounced and where mobility is hampered by geographical isolation in outlying rural areas, informal settlements and townships serviced by underdeveloped infra-structure and unreliable transport, is profound.

Locating avenues for reform therefore required a radical shift in thinking, so that, even within the confines of its limitations; prescription was capable of functioning as a credible vehicle of transformation, able to meaningfully translate the constitutional values of human dignity, the achievement of equality and the advancement of fundamental human rights.

With this in mind, the Commission releases, **for general information and public comment**, Revised Discussion Paper 147 on Project 125: Prescription Periods, setting out its **preliminary recommendations** for law reform, which are the following, in principal:

1. prohibiting the recovery of prescribed debt, in keeping with the principle of extinction;
2. increasing the general prescription period, from three to four years;
3. suspending the running of prescription in instances where creditors are unable to access the courts due to adverse socio-economic circumstances, including poverty and illiteracy;
4. compelling the operation of all notice provisions in line with the Institution of Legal Proceedings against certain Organs of State, 2002 (Act 40 of 2002), and providing for the repeal or amendment of principles that enable them to operate harshly;
5. compelling the operation of limitation and prescription provisions contained in certain enactments in line with the more beneficial "*prescription of debts*" regime of the Prescription Act; and
6. circumscribing the operation of remaining limitation provisions, by, amongst other things, diluting their harsh effect and incorporating into their scheme, elements that have a more beneficial impact on the rights of creditors.

The Commission invites comments on the preliminary proposals presented in the Revised Discussion Paper and proposed draft Bills annexed to the paper. **The closing date for comments is 30 April 2018.** All comments and representations must be sent to Ms Theresa Häderli at the following address:

The Secretary
South African Law Reform Commission
Private Bag X668
Pretoria
0001
E-mail: THaderli@justice.gov.za
Tel.: 012 622 6329

Ms Häderli will also respond to enquiries relating to the media statement.

The Revised Discussion Paper is available at the following site: <http://www.justice.gov.za/salrc/dpapers.htm> on the Internet. Hard copies can also be obtained on request, free of charge, and in this regard, Mr Jacob Kabini may be contacted at Jakabini@justice.gov.za or 012 622 6327.

ISSUED BY THE SECRETARY: SA LAW REFORM COMMISSION: CENTURION

DATE: 15/02/18

Mjatse