

# **CRIMINAL PROCEEDINGS ETC. (REFORM) (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

#### **Part 2 - Proceedings**

#### **Miscellaneous**

#### ***Section 41: Electronic proceedings***

234. This section makes provision to allow for procedures such as initiation of proceedings and signing requirements in the summary courts to be carried out electronically. New sections 303B and 308A are inserted into the 1995 Act.

#### **New section 303B – Electronic summary proceedings.**

235. Section 138 of the 1995 Act provides that all summary proceedings must be instituted by a complaint which is signed by the procurator fiscal. The form and content of such a complaint is detailed in schedules 3 and 5 to the 1995 Act and rule 16.1 of the Act of Adjournal (Criminal Procedure Rules) 1996. Subsection (1) of new section 303B provides that proceedings may be initiated by electronic complaint and where this is the case the requirement for a signature by the procurator fiscal is satisfied by an electronic signature. Subsection (1)(c) specifies that an electronic signature will also be valid on other complaints as well as electronic complaints. So, for instance, a printed copy of a complaint which has been signed electronically can be regarded as having been validly signed. Electronic signature attracts the definition which is given to it in section 7(2) of the [Electronic Communications Act 2000 \(c.7\)](#).
236. Subsection (2) of the new section provides that any reference in the Act to a complaint includes a reference to an electronic complaint unless otherwise required.
237. Subsection (3) of the new section provides that where proceedings were initiated by electronic complaint that complaint shall be held to be the principal version of the complaint in the event of any conflict between that complaint and any other document.
238. Subsection (4) of new section 303B provides that a juror's citation may be satisfied by an electronic signature of or on behalf of the sheriff clerk as required by section 85(4) of the 1995 Act.
239. Subsection (5) of the new section provides that a certificate produced by the prosecutor stating the period of time to be disregarded in calculating the date of commencement of proceedings (for the purposes of calculating time-bar in a case) where an offer from the prosecutor of a fixed penalty, compensation offer or work order has not been accepted or is recalled may be authenticated by an electronic signature. This relates to the provision in section 136B of the 1995 Act, which is introduced by section 54 of this Act – the certificate is referred to in the new section 136B(2).

*These notes relate to the Criminal Proceedings etc. (Reform) (Scotland)  
Act 2007 (asp 6) which received Royal Assent on 22 February 2007*

240. Subsection (6) of the new section provides that the signing of postal citations of accused persons may be satisfied by electronic signature. Currently under section 141(3)(a) of the 1995 act these citations must be physically signed by the prosecutor.
241. Subsection (7) of the new section provides that where amendments are made to an electronic complaint authentication by the clerk of court by means of an electronic signature shall be sufficient.
242. Subsection (8) of the new section refers to section 172(2) of the 1995 Act which relates to the signing of warrants (other than warrants of apprehension or search), orders of court and sentences. New subsection (8) provides that the requirement to sign such items may be satisfied by means of an electronic signature of the clerk of court.
243. Subsection (9) of the new section provides that an electronic signature shall be sufficient authentication on a statement of uncontroversial evidence.
244. Subsection (10) of the new section provides that an electronic signature will be sufficient authentication where corrections of errors have been made in summary proceedings.

**New section 308A – Expressions relating to electronic complaints**

245. Section 41(2) of the Act inserts a new section 308A into the 1995 Act. This section provides definitions of the terms used in relation to electronic proceedings.
246. Subsections (1) & (2) give definitions of electronic complaint, electronic communication and electronic signature. Subsections (3) & (4) provide that Scottish ministers may by order modify the meaning of electronic signature.