



# Requirements of Writing (Scotland) Act 1995

## 1995 CHAPTER 7

### [<sup>F1</sup>PART 2

#### TRADITIONAL DOCUMENTS

##### Textual Amendments

- F1** Pt. 2 and heading inserted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012](#) (asp 5), ss. 122, 123, **Sch. 3 para. 2** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

#### **1A Application of Part 2**

This Part of this Act applies to documents written on paper, parchment or some similar tangible surface (“traditional documents”).]

#### **2 Type of writing required for formal validity of certain [<sup>F2</sup>traditional] documents.**

- (1) No [<sup>F3</sup>traditional] document required by section 1(2) of this Act shall be valid in respect of the formalities of execution unless it is subscribed by the granter of it or, if there is more than one granter, by each granter, but nothing apart from such subscription shall be required for the document to be valid as aforesaid.
- (2) A contract mentioned in section 1(2)(a)(i) of this Act may be regarded as constituted or varied (as the case may be) if the offer is contained in one or more [<sup>F4</sup>traditional documents] and the acceptance is contained in another [<sup>F5</sup>traditional document] or other [<sup>F4</sup>traditional documents], and [<sup>F6</sup>such] document is subscribed by the granter or granters thereof.

*Status: Point in time view as at 08/12/2014.*

*Changes to legislation: Requirements of Writing (Scotland) Act 1995, Part 2 is up to date with all changes known to be in force on or before 19 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) Nothing in this section shall prevent a [<sup>F7</sup>traditional document] which has not been subscribed by the granter or granters of it from being used as evidence in relation to any right or obligation to which the document relates.
- (4) This section is without prejudice to any other enactment which makes different provision in respect of the formalities of execution of a document to which this section applies.

**Textual Amendments**

- F2** Word in s. 2 heading inserted (11.5.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 4** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F3** Word in s. 2(1) inserted (11.5.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 3(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F4** Words in s. 2(2) substituted (11.5.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 3(b)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F5** Words in s. 2(2) substituted (11.5.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 3(b)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F6** Word in s. 2(2) substituted (11.5.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 3(b)(iii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F7** Words in s. 2(3) substituted (11.5.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 3(c)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)

**<sup>F8</sup>2A Formalities of execution of electronic documents**

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**Textual Amendments**

- F8** Ss. 2A-2C repealed (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 5** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

**<sup>F8</sup>2B Directions by the Keeper of the Registers of Scotland**

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**Textual Amendments**

- F8** Ss. 2A-2C repealed (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 5** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

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## **F8 2C Authentication of an electronic document by a person granting in more than one capacity**

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### **Textual Amendments**

**F8** Ss. 2A-2C repealed (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 3 para. 5](#) (with s. 121, [Sch. 4 paras. 13, 16](#)); S.S.I. 2014/41, art. 2(1)(c)(2), [Sch. Pt. 3](#) (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

## **3 Presumption as to granter's subscription or date or place of subscription.**

- (1) Subject to subsections (2) to (7) below, where—
  - (a) a [<sup>F9</sup>traditional document] bears to have been subscribed by a granter of it;
  - (b) the document bears to have been signed by a person as a witness of that granter's subscription and the document, or the testing clause or its equivalent, bears to state the name and address of the witness; and
  - (c) nothing in the document, or in the testing clause or its equivalent, indicates—
    - (i) that it was not subscribed by that granter as it bears to have been so subscribed; or
    - (ii) that it was not validly witnessed for any reason specified in paragraphs (a) to (e) of subsection (4) below,the document shall be presumed to have been subscribed by that granter.
- (2) Where a [<sup>F10</sup>traditional document is a testamentary document consisting] of more than one sheet, it shall not be presumed to have been subscribed by a granter as mentioned in subsection (1) above unless, in addition to it bearing to have been subscribed by him and otherwise complying with that subsection, it bears to have been signed by him on every sheet.
- (3) For the purposes of subsection (1)(b) above—
  - (a) the name and address of a witness may be added at any time before the document is—
    - (i) founded on in legal proceedings; or
    - (ii) registered for preservation in the Books of Council and Session or in sheriff court books; and
  - (b) the name and address of a witness need not be written by the witness himself.
- (4) Where, in any proceedings relating to a [<sup>F11</sup>traditional document] in which a question arises as to a granter's subscription, it is established—
  - (a) that a signature bearing to be the signature of the witness of that granter's subscription is not such a signature, whether by reason of forgery or otherwise;
  - (b) that the person who signed the document as the witness of that granter's subscription is a person who is named in the document as a granter of it;
  - (c) that the person who signed the document as the witness of that granter's subscription, at the time of signing—
    - (i) did not know the granter;
    - (ii) was under the age of 16 years; or
    - (iii) was mentally incapable of acting as a witness;

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- (d) that the person who signed the document, purporting to be the witness of that granter's subscription, did not witness such subscription;
- (e) that the person who signed the document as the witness of that granter's subscription did not sign the document after him or that the granter's subscription or, as the case may be, acknowledgement of his subscription and the person's signature as witness of that subscription were not one continuous process;
- (f) that the name or address of the witness of that granter's subscription was added after the document was founded on or registered as mentioned in subsection (3)(a) above or is erroneous in any material respect; or
- (g) in the case of a testamentary document consisting of more than one sheet, that a signature on any sheet bearing to be the signature of the granter is not such a signature, whether by reason of forgery or otherwise,

then, for the purposes of those proceedings, there shall be no presumption that the document has been subscribed by that granter.

(5) For the purposes of subsection (4)(c)(i) above, the witness shall be regarded as having known the person whose subscription he has witnessed at the time of witnessing if he had credible information at that time of his identity.

(6) For the purposes of subsection (4)(e) above, where—

- (a) a document is granted by more than one granter; and
- (b) a person is the witness to the subscription of more than one granter,

the subscription or acknowledgement of any such granter and the signature of the person witnessing that granter's subscription shall not be regarded as not being one continuous process by reason only that, between the time of that subscription or acknowledgement and that signature, another granter has subscribed the document or acknowledged his subscription.

(7) For the purposes of the foregoing provisions of this section a person witnesses a granter's subscription of a document—

- (a) if he sees the granter subscribe it; or
- (b) if the granter acknowledges his subscription to that person.

(8) Where—

- (a) by virtue of subsection (1) above a document to which this subsection applies is presumed to have been subscribed by a granter of it;
- (b) the document, or the testing clause or its equivalent, bears to state the date or place of subscription of the document by that granter; and
- (c) nothing in the document, or in the testing clause or its equivalent, indicates that that statement as to date or place is incorrect,

there shall be a presumption that the document was subscribed by that granter on the date or at the place as stated.

(9) Subsection (8) above applies to any [<sup>F12</sup>traditional document] other than a testamentary document.

(10) Where—

- (a) a [<sup>F13</sup>traditional document is a testamentary document bearing] to have been subscribed and the document, or the testing clause or its equivalent, bears to state the date or place of subscription (whether or not it is presumed under subsections (1) to (7) above to have been subscribed by a granter of it); and

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- (b) nothing in the document, or in the testing clause or its equivalent, indicates that that statement as to date or place is incorrect, there shall be a presumption that the statement as to date or place is correct.

#### Textual Amendments

- F9** Words in s. 3(1)(a) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 6(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F10** Words in s. 3(2) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 6(b)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F11** Words in s. 3(4) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 6(c)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F12** Words in s. 3(9) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 6(d)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F13** Words in s. 3(10)(a) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 6(e)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)

#### <sup>F14</sup>3A Presumption as to the authentication of electronic documents

#### Textual Amendments

- F14** S. 3A repealed (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 7** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

#### 4 Presumption as to granter's subscription or date or place of subscription when established in court proceedings.

- (1) Where a [<sup>F15</sup>traditional document] bears to have been subscribed by a granter of it, but there is no presumption under section 3 of this Act that the document has been subscribed by that granter, then, if the court, on an application being made to it by any person who has an interest in the document, is satisfied that the document was subscribed by that granter, it shall—
- cause the document to be endorsed with a certificate to that effect; or
  - where the document has already been registered in the Books of Council and Session or in sheriff court books, grant decree to that effect.
- (2) Where a [<sup>F16</sup>traditional document] bears to have been subscribed by a granter of it, but there is no presumption under section 3 of this Act as to the date or place of subscription, then, if the court, on an application being made to it by any person who has an interest in the document, is satisfied as to the date or place of subscription, it shall—
- cause the document to be endorsed with a certificate to that effect; or

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- (b) where the document has already been registered in the Books of Council and Session or in sheriff court books, grant decree to that effect.
- (3) On an application under subsection (1) or (2) above evidence shall, unless the court otherwise directs, be given by affidavit.
- (4) An application under subsection (1) or (2) above may be made either as a summary application or as incidental to and in the course of other proceedings.
- (5) The effect of a certificate or decree—
  - (a) under subsection (1) above shall be to establish a presumption that the document has been subscribed by the granter concerned;
  - (b) under subsection (2) above shall be to establish a presumption that the statement in the certificate or decree as to date or place is correct.
- (6) In this section “the court” means—
  - (a) in the case of a summary application—
    - (i) the sheriff in whose sheriffdom the applicant resides; or
    - (ii) if the applicant does not reside in Scotland, the sheriff at Edinburgh; and
  - (b) in the case of an application made in the course of other proceedings, the court before which those proceedings are pending.

#### Textual Amendments

- F15** Words in s. 4(1) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 3 para. 8\(a\)](#) (with s. 121, [Sch. 4 paras. 13, 16](#)); S.S.I. 2014/41, art. 2(1)(b)(2), [Sch. Pt. 2](#) (with arts. 3, 4)
- F16** Words in s. 4(2) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 3 para. 8\(b\)](#) (with s. 121, [Sch. 4 paras. 13, 16](#)); S.S.I. 2014/41, art. 2(1)(b)(2), [Sch. Pt. 2](#) (with arts. 3, 4)

## 5 Alterations to [<sup>F17</sup>traditional documents]: formal validity and presumptions.

- (1) An alteration made to a [<sup>F18</sup>traditional document] required by section 1(2) of this Act—
  - (a) before the document is subscribed by the granter or, if there is more than one granter, by the granter first subscribing it, shall form part of the document as so subscribed;
  - (b) after the document is so subscribed shall, if the alteration has been signed by the granter or (as the case may be) by all the granters, have effect as a formally valid alteration of the document as so subscribed,
 but an alteration made to such a document otherwise than as mentioned in paragraphs (a) and (b) above shall not be formally valid.
- (2) Subsection (1) above is without prejudice to—
  - (a) any rule of law enabling any provision in a testamentary document to be revoked by deletion or erasure without authentication of the deletion or erasure by the testator;
  - (b) the <sup>M1</sup>Erasures in Deeds (Scotland) Act 1836 and section 54 of the <sup>M2</sup>Conveyancing (Scotland) Act 1874.

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- (3) The fact that an alteration to a [<sup>F19</sup>traditional document] was made before the document was subscribed by the granter of it, or by the granter first subscribing it, may be established by all relevant evidence, whether written or oral.
- (4) Where a [<sup>F20</sup>traditional document] bears to have been subscribed by the granter or, if there is more than one granter, by all the granters of it, then, if subsection (5) or (6) below applies, an alteration made to the document shall be presumed to have been made before the document was subscribed by the granter or, if there is more than one granter, by the granter first subscribing it, and to form part of the document as so subscribed.
- (5) This subsection applies where—
  - (a) the document is presumed under section 3 of this Act to have been subscribed by the granter or granters (as the case may be);
  - (b) it is stated in the document, or in the testing clause or its equivalent, that the alteration was made before the document was subscribed; and
  - (c) nothing in the document, or in the testing clause or its equivalent, indicates that the alteration was made after the document was subscribed.
- (6) This subsection applies where subsection (5) above does not apply, but the court is satisfied, on an application being made to it, that the alteration was made before the document was subscribed by the granter or, if there is more than one granter, by the granter first subscribing it, and causes the document to be endorsed with a certificate to that effect or, where the document has already been registered in the Books of Council and Session or in sheriff court books, grants decree to that effect.
- (7) Subsections (3), (4) and (6) of section 4 of this Act shall apply in relation to an application under subsection (6) above as they apply in relation to an application under subsection (1) of that section.
- (8) Where an alteration is made to a [<sup>F21</sup>traditional document] after the document has been subscribed by a granter, Schedule 1 to this Act (presumptions as to granter's signature and date and place of signing in relation to such alterations) shall have effect.

<sup>F22</sup>(9) .....

#### Textual Amendments

- F17** Words in s. 5 substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 10** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F18** Words in s. 5(1) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 9(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F19** Words in s. 5(3) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 9(b)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F20** Words in s. 5(4) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 9(c)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F21** Words in s. 5(8) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 9(d)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)

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**F22** S. 5(9) repealed (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 3 para. 9\(e\)](#) (with s. 121, [Sch. 4 paras. 13, 16](#)); S.S.I. 2014/41, art. 2(1)(b)(2), [Sch. Pt. 2](#) (with arts. 3, 4)

#### Marginal Citations

**M1** 1836 c. 33.

**M2** 1874 c. 94.

## 6 Registration of [<sup>F23</sup>traditional documents].

- (1) Subject to subsection (3) below <sup>F24</sup>..., it shall not be competent—
- (a) to record a [<sup>F25</sup>traditional document] in the Register of Sasines; or
  - (b) to register a [<sup>F26</sup>traditional document] for execution or preservation in the Books of Council and Session or in sheriff court books,
- [<sup>F27</sup>(ba) to register a traditional document in the Land Register of Scotland,]  
unless subsection (2) below applies in relation to the document.
- (2) This subsection applies where—
- (a) the document is presumed under section 3 or 4 of this Act to have been subscribed by the granter; or
  - (b) if there is more than one granter, the document is presumed under section 3 or 4 or partly under the one section and partly under the other to have been subscribed by at least one of the granters.
- (3) Subsection (1) above shall not apply in relation to—
- [<sup>F28</sup>(a) a document's—
    - (i) being recorded in the Register of Sasines, or
    - (ii) being registered in the Land Register of Scotland, in the Books of Council and Session or in sheriff court books,
 if an enactment requires or expressly permits such recording or registration notwithstanding that the document is not presumed to have been subscribed by the granter or by at least one of the granters,]
  - (b) the recording of a court decree in the Register of Sasines [<sup>F29</sup>or the registering of such a decree in the Land Register of Scotland];
  - (c) the registration in the Books of Council and Session or in sheriff court books of—
    - (i) a testamentary document;
    - (ii) a document which is directed by the Court of Session or (as the case may be) the sheriff to be so registered;
    - (iii) a document whose formal validity is governed by a law other than Scots law, if the Keeper of the Registers of Scotland or (as the case may be) the sheriff clerk is satisfied that the document is formally valid according to the law governing such validity;
    - (iv) a court decree granted under section 4 or 5 of this Act in relation to a document already registered in the Books of Council and Session or in sheriff court books (as the case may be); or
  - (d) the registration of a court decree in a separate register maintained for that purpose.



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- (4) A <sup>F30</sup>traditional document] may be registered for preservation in the Books of Council and Session or in sheriff court books without a clause of consent to registration.

#### Textual Amendments

- F23** Words in s. 6 title substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 12** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)
- F24** Words in s. 6(1) repealed (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 11(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)
- F25** Words in s. 6(1)(a) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 11(b)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F26** Words in s. 6(1)(b) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 11(c)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F27** S. 6(1)(ba) inserted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 11(d)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F28** S. 6(3)(a) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 11(e)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F29** Words in s. 6(3)(b) inserted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 11(f)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)
- F30** Words in s. 6(4) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 11(g)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)

#### <sup>F31</sup>6A Registration for preservation and execution of electronic standard securities

#### Textual Amendments

- F31** S. 6A repealed (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 13** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

#### 7 Subscription and signing.

- (1) Except where an enactment expressly provides otherwise, a <sup>F32</sup>traditional document] is subscribed by a granter of it if it is signed by him at the end of the last page (excluding any annexation, whether or not incorporated in the document as provided for in section 8 of this Act).
- (2) Subject to paragraph 2(2) of Schedule 2 to this Act, a <sup>F33</sup>traditional document], or an alteration to <sup>F34</sup>such a document], is signed by an individual natural person as a granter or on behalf of a granter of it if it is signed by him—

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- (a) with the full name by which he is identified in the document or in any testing clause or its equivalent; or
  - (b) with his surname, preceded by at least one forename (or an initial or abbreviation or familiar form of a forename); or
  - (c) except for the purposes of section 3(1) to (7) of this Act, with a name (not in accordance with paragraph (a) or (b) above) or description or an initial or mark if it is established that the name, description, initial or mark—
    - (i) was his usual method of signing, or his usual method of signing documents or alterations of the type in question; or
    - (ii) was intended by him as his signature of the document or alteration.
- (3) Where there is more than one granter, the requirement under subsection (1) above of signing at the end of the last page of a document shall be regarded as complied with if at least one granter signs at the end of the last page and any other granter signs on an additional page.
- (4) Where a person grants a [<sup>F35</sup>traditional document] in more than one capacity, one subscription of the document by him shall be sufficient to bind him in all such capacities.
- (5) A [<sup>F36</sup>traditional document], or an alteration to [<sup>F37</sup>such a document], is signed by a witness if it is signed by him—
- (a) with the full name by which he is identified in the document or in any testing clause or its equivalent; or
  - (b) with his surname, preceded by at least one forename (or an initial or abbreviation or familiar form of a forename),
- and if the witness is witnessing the signature of more than one granter, it shall be unnecessary for him to sign the document or alteration more than once.
- (6) This section is without prejudice to any rule of law relating to the subscription or signing of documents by members of the Royal Family, by peers or by the wives or the eldest sons of peers.
- (7) Schedule 2 to this Act (special rules relating to subscription and signing of [<sup>F38</sup>traditional documents] etc by partnerships, companies, [<sup>F39</sup>limited liability partnership,] local authorities, other bodies corporate and Ministers) shall have effect.

#### Textual Amendments

- F32** Words in s. 7(1) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 14(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)
- F33** Words in s. 7(2) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 14(b)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)
- F34** Words in s. 7(2) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 14(b)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)
- F35** Words in s. 7(4) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 14(c)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

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- F36** Words in s. 7(5) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 14(d)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)
- F37** Words in s. 7(5) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 14(d)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)
- F38** Words in s. 7(7) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 14(e)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)
- F39** Words in s. 7(7) inserted (6.4.2001) by S.S.I. 2001/128, reg. 5, **Sch. 4 para. 4**

**Modifications etc. (not altering text)**

- C1** S. 7 applied (with modifications) (temp.) (11.5.2014) by The Land Registration etc. (Scotland) Act 2012 (Commencement No. 2 and Transitional Provisions) Order 2014 (S.S.I. 2014/41), **art. 4** (see S.S.I. 2014/127, art. 2)

**8 Annexations to [F40 traditional documents].**

- (1) Subject to subsection (2) below and except where an enactment expressly otherwise provides, any annexation to a [F41 traditional document] shall be regarded as incorporated in the document if it is—
- referred to in the document; and
  - identified on its face as being the annexation referred to in the document, without the annexation having to be signed or subscribed.
- (2) Where a document relates to land and an annexation to it describes or shows all or any part of the land to which the document relates, the annexation shall be regarded as incorporated in the document if and only if—
- it is referred to in the document; and
  - it is identified on its face as being the annexation referred to in the document; and
  - it is signed on—
    - each page, where it is a plan, drawing, photograph or other representation; or
    - the last page, where it is an inventory, appendix, schedule or other writing.
- (3) Any annexation referred to in subsection (2) above which bears to have been signed by a granter of the document shall be presumed to have been signed by the person who subscribed the document as that granter.
- (4) Section 7(2) of this Act shall apply in relation to any annexation referred to in subsection (2) above as it applies in relation to a [F42 traditional document] as if for any reference to a document (except the reference in paragraph (a)) there were substituted a reference to an annexation.
- (5) It shall be competent to sign any annexation to a [F43 traditional document] at any time before the document is—
- founded on in legal proceedings;
  - registered for preservation in the Books of Council and Session or in sheriff court books;

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- (c) recorded in the Register of Sasines;
  - (d) registered in the Land Register of Scotland.
- (6) Where there is more than one granter, the requirement under subsection (2)(c)(ii) above of signing on the last page shall be regarded as complied with (provided that at least one granter signs at the end of the last page) if any other granter signs on an additional page.

#### Textual Amendments

- F40** Words in s. 8 heading substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 16** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)
- F41** Words in s. 8(1) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 15(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)
- F42** Words in s. 8(4) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 15(b)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)
- F43** Words in s. 8(5) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 15(c)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

## 9 Subscription on behalf of blind granter or granter unable to write.

- (1) Where a granter of a [F44traditional document] makes a declaration to a relevant person that he is blind or unable to write, the relevant person—
- (a) having read the document to that granter; or
  - (b) if the granter makes a declaration that he does not wish him to do so, without having read it to the granter,
- shall, if authorised by the granter, be entitled to subscribe it and, if it is a testamentary document, sign it as mentioned in section 3(2) of this Act, on the granter's behalf.
- (2) Subscription or signing by a relevant person under subsection (1) above shall take place in the presence of the granter.
- (3) This Act shall have effect in relation to subscription or signing by a relevant person under subsection (1) above subject to the modifications set out in Schedule 3 to this Act.
- (4) A document subscribed by a relevant person under subsection (1) above which confers on the relevant person or his spouse, son or daughter a benefit in money or money's worth (whether directly or indirectly) shall be invalid to the extent, but only to the extent, that it confers such benefit.
- (5) This section and Schedule 3 to this Act apply in relation to the signing of—
- (a) an annexation to a [F45traditional document] as mentioned in section 8(2) of this Act;
  - (b) an alteration made to a [F46traditional document as mentioned in section 5(1)] or to any such annexation to a document,
- as they apply in relation to the subscription of a document; and for that purpose, any reference to reading a document includes a reference to describing a plan, drawing,

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photograph or other representation in such an annexation or in an alteration to such an annexation.

(6) In this Act “relevant person” means a solicitor who has in force a practising certificate as defined in section 4(c) of the<sup>M3</sup>Solicitors (Scotland) Act 1980, an advocate, a justice of the peace or a sheriff clerk and, in relation to the execution of documents outwith Scotland, includes a notary public or any other person with official authority under the law of the place of execution to execute documents on behalf of persons who are blind or unable to write.

(7) Nothing in this section shall prevent the granter of a document who is blind from subscribing or signing the document as mentioned in section 7 of this Act.

#### Textual Amendments

**F44** Words in s. 9 substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 17(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

**F45** Words in s. 9(5)(a) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 17(b)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

**F46** Words in s. 9(5)(b) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 17(b)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

#### Modifications etc. (not altering text)

**C2** S. 9 modified (15.8.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), **s. 14(3)**; S.S.I. 2003/384, **art. 2(a)**

#### Marginal Citations

**M3** 1980 c. 46.

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