

Changes to legislation: Requirements of Writing (Scotland) Act 1995, Cross Heading: Companies is up to date with all changes known to be in force on or before 21 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) View outstanding changes

SCHEDULES

SCHEDULE 2

SUBSCRIPTION AND SIGNING: SPECIAL CASES

Modifications etc. (not altering text)

- C1** Sch. 2 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)

Companies

- 3 (1) Except where an enactment expressly provides otherwise, where a granter of a [^{F1}traditional document] is a company, the document is signed by the company if it is signed on its behalf by a director, or by the secretary, of the company or by a person authorised to sign the document on its behalf.
- (2) This Act is without prejudice to—
- [^{F2}(a) sections 270(3) and 274 of the Companies Act 2006; and]
- (b) paragraph 9 of Schedule 1, paragraph 9 of Schedule 2, and paragraph 7 of Schedule 4, to the ^{M1}Insolvency Act 1986.
- (3) Sub-paragraphs (1) and (2) of this paragraph apply in relation to the signing of an alteration made to a document as they apply in relation to the signing of a document.
- (4) Where a granter of a [^{F3}traditional document] is a company, section 3 of and Schedule 1 to this Act shall have effect subject to the modifications set out in sub-paragraphs (5) and (6) below.
- (5) In section 3—
- (a) for subsection (1) there shall be substituted the following subsections—
- “(1) Subject to subsections (1A) to (7) below, where—
- (a) a [^{F4}traditional document] bears to have been subscribed on behalf of a company by a director, or by the secretary, of the company or by a person bearing to have been authorised to subscribe the document on its behalf;
- (b) the document bears to have been signed by a person as a witness of the subscription of the director, secretary or other person subscribing on behalf of the company and 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 on behalf of the company as it bears to have been so subscribed; or

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(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 the company.

(1A) Where a document does not bear to have been signed by a person as a witness of the subscription of the director, secretary or other person subscribing on behalf of the company it shall be presumed to have been subscribed by the company if it bears to have been subscribed on behalf of the company by—

- (a) two directors of the company; or
- (b) a director and secretary of the company; or
- (c) two persons bearing to have been authorised to subscribe the document on its behalf.

(1B) For the purposes of subsection (1)(b) above, the name and address of the witness may bear to be stated in the document itself or in the testing clause or its equivalent.

(1C) A presumption under subsection (1) or (1A) above as to subscription of a document does not include a presumption—

- (a) that a person bearing to subscribe the document as a director or the secretary of the company was such director or secretary; or
- (b) that a person subscribing the document on behalf of the company bearing to have been authorised to do so was authorised to do so.”;

(b) in subsection (4) after paragraph (g) there shall be inserted the following paragraph—

“(h) if the document does not bear to have been witnessed, but bears to have been subscribed on behalf of the company by two of the directors of the company, or by a director and secretary of the company, or by two authorised persons, that a signature bearing to be the signature of a director, secretary or authorised person is not such a signature, whether by reason of forgery or otherwise;”.

(6) In paragraph 1 of Schedule 1—

(a) for sub-paragraph (1) there shall be substituted the following sub-paragraphs—

“(1) Subject to sub-paragraphs (1A) to (7) below, where—

- (a) an alteration to a [^{F5}traditional document] bears to have been signed on behalf of a company by a director, or by the secretary, of the company or by a person bearing to have been authorised to sign the alteration on its behalf;
- (b) the alteration bears to have been signed by a person as a witness of the signature of the director, secretary or other person signing on behalf of the company and to state the name and address of the witness; and

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- (c) nothing in the document or alteration, or in the testing clause or its equivalent, indicates—
 - (i) that the alteration was not signed on behalf of the company as it bears to have been so signed; or
 - (ii) that the alteration was not validly witnessed for any reason specified in paragraphs (a) to (e) of sub-paragraph (4) below,the alteration shall be presumed to have been signed by the company.
- (1A) Where an alteration does not bear to have been signed by a person as a witness of the signature of the director, secretary or other person signing on behalf of the company it shall be presumed to have been signed by the company if it bears to have been signed on behalf of the company by—
 - (a) two directors of the company; or
 - (b) a director and secretary of the company; or
 - (c) two persons bearing to have been authorised to sign the alteration on its behalf.
- (1B) For the purposes of sub-paragraph (1)(b) above, the name and address of the witness may bear to be stated in the alteration itself or in the testing clause or its equivalent.
- (1C) A presumption under sub-paragraph (1) or (1A) above as to signing of an alteration to a document does not include a presumption—
 - (a) that a person bearing to sign the alteration as a director or the secretary of the company was such director or secretary; or
 - (b) that a person signing the alteration on behalf of the company bearing to have been authorised to do so was authorised to do so.”;
- (b) in sub-paragraph (4) after paragraph (g) there shall be inserted the following paragraph—
 - “(h) if the alteration does not bear to have been witnessed, but bears to have been signed on behalf of the company by two of the directors of the company, or by a director and secretary of the company, or by two authorised persons, that a signature bearing to be the signature of a director, secretary or authorised person is not such a signature, whether by reason of forgery or otherwise;”.

Textual Amendments

- F1** Words in Sch. 2 para. 3(1) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 25(c)(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)
- F2** Sch. 2 para. 3(2)(a) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2, 3(1)(b), **Sch. 1 para. 199** (with arts. 6, 11, 12)
- F3** Words in Sch. 2 para. 3(4) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 25(c)(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)

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- F4** Words in Sch. 2 para. 3(5)(a) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 25(c)(iii)** (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)
- F5** Words in Sch. 2 para. 3(6)(a) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 25(c)(iv)** (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)

Marginal Citations

- M1** 1986 c. 45.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6(1)(aa) inserted by [2007 asp 3 s. 48\(1\)](#)
- Sch. 2 para. 2A and cross-heading inserted by [2024 asp 2 s. 79\(2\)](#)