

Changes to legislation: Requirements of Writing (Scotland) Act 1995, Paragraph 4 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)

Local authorities

- 4 (1) Except where an enactment expressly provides otherwise, where a granter of a [^{F1}traditional document] is a local authority, the document is signed by the authority if it is signed on their behalf by the proper officer of the authority.
- (2) For the purposes of the signing of a document under this paragraph, a person purporting to sign on behalf of a local authority as an officer of the authority shall be presumed to be the proper officer of the authority.
- (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 [^{F2}traditional document] is a local authority, section 3 of and Schedule 1 to this Act shall have effect subject to the modifications set out in sub-paragraphs (5) to (8) below.
- (5) For section 3(1) there shall be substituted the following subsections—
- “(1) Subject to subsections (1A) to (7) below, where—
- (a) a [^{F3}traditional document] bears to have been subscribed on behalf of a local authority by the proper officer of the authority;
- (b) the document bears—
- (i) to have been signed by a person as a witness of the proper officer’s subscription and to state the name and address of the witness; or
- (ii) (if the subscription is not so witnessed), to have been sealed with the common seal of the authority; 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 authority 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 or that it was not sealed as it bears to have been sealed or that it was not

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validly sealed for the reason specified in subsection (4)(h) below,

the document shall be presumed to have been subscribed by the proper officer and by the authority.

(1A) For the purposes of subsection (1)(b)(i) 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.”.

(6) In section 3(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 sealed with the common seal of the authority, that it was sealed by a person without authority to do so or was not sealed on the date on which it was subscribed on behalf of the authority;”.

(7) For paragraph 1(1) of Schedule 1 there shall be substituted the following sub-paragraphs—

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

- (a) an alteration to a [^{F4}traditional document] bears to have been signed on behalf of a local authority by the proper officer of the authority;
- (b) the alteration bears—
 - (i) to have been signed by a person as a witness of the proper officer’s signature and to state the name and address of the witness; or
 - (ii) (if the signature is not so witnessed), to have been sealed with the common seal of the authority; and
- (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 authority 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 or that it was not sealed as it bears to have been sealed or that it was not validly sealed for the reason specified in sub-paragraph (4)(h) below,

the alteration shall be presumed to have been signed by the proper officer and by the authority.

(1A) For the purposes of sub-paragraph (1)(b)(i) 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.”.

(8) In paragraph 1(4) of Schedule 1 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 sealed with the common seal of the authority, that it was sealed by a person without authority to do so or was not sealed on the date on which it was signed on behalf of the authority;”.

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Textual Amendments

- F1** Words in Sch. 2 para. 4(1) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 25(e)(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** Words in Sch. 2 para. 4(4) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 25(e)(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)
- F3** Words in Sch. 2 para. 4(5) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 25(e)(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)
- F4** Words in Sch. 2 para. 4(7) substituted (8.12.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 3 para. 25(e)(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)

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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\(2\)](#)