



# Criminal Proceedings etc. (Reform) (Scotland) Act 2007

2007 asp 6

## PART 2

### PROCEEDINGS

#### *Electronic proceedings*

#### **41 Electronic proceedings**

(1) After section 303A of the 1995 Act there is inserted—

*“Electronic proceedings*

#### **303B Electronic summary proceedings**

- (1) For the purposes of section 138(1) of this Act—
- (a) institution of proceedings may be effected by electronic complaint;
  - (b) the requirement for signing is satisfied in relation to an electronic complaint by an electronic signature;
  - (c) the requirement for signing may be satisfied in relation to any other complaint by an electronic signature.
- (2) The references in the other provisions of this Act to a complaint include an electronic complaint unless the context otherwise requires.
- (3) Where proceedings are instituted by electronic complaint, in the event of any conflict between—
- (a) the principal electronic complaint kept by the clerk of court for the purposes of the proceedings; and
  - (b) any other document (whether in electronic or other form) purporting to be the complaint,
- the principal electronic complaint prevails.

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**Changes to legislation:** There are currently no known outstanding effects for the *Criminal Proceedings etc. (Reform) (Scotland) Act 2007*, Cross Heading: *Electronic proceedings*. (See end of Document for details)

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- (4) The requirement in section 85(4) of this Act for signing may be satisfied by electronic signature.
  - (5) The requirement in section 136B(2) of this Act for signing may be satisfied by electronic signature.
  - (6) The requirement in section 141(3)(a) of this Act for signing may be satisfied by electronic signature.
  - (7) The requirement in section 159(3) of this Act for authentication by initials is satisfied in relation to an electronic complaint by authentication by electronic signature.
  - (8) The requirements in section 172(2) of this Act for signing by the clerk of court may be satisfied by electronic signature.
  - (9) The requirements in section 258(2) and (9) of this Act for signing may be satisfied in relation to summary proceedings by electronic signature.
  - (10) The requirement in section 299(5) of this Act for authentication by signature is satisfied in relation to—
    - (a) proceedings which are recorded in electronic form;
    - (b) any extract of sentence, or order made, which is recorded in electronic form,
 by authentication by electronic signature.”
- (2) After section 308 of the 1995 Act there is inserted—

**“308A Expressions relating to electronic proceedings**

- (1) In this Act, an “electronic complaint” is a complaint in electronic form which is capable of being—
  - (a) transmitted by means of electronic communication;
  - (b) kept in legible form.
- (2) In this Act, unless the context otherwise requires—
  - “electronic communication” is to be construed in accordance with section 15(1) of the Electronic Communications Act 2000 (c. 7);
  - “electronic signature” is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000, but includes a version of an electronic signature which is reproduced on a paper document.
- (3) The Scottish Ministers may by order modify the meaning of “electronic signature” provided for in subsection (2) above for the purpose of such provisions of this Act as are specified in the order.
- (4) An order under subsection (3) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.”

**Commencement Information**

- II** S. 41 not in force at Royal Assent, see s. 84; s. 41(1) in force for specified purposes and s. 41(2) in force for specified purposes at 10.12.2007 by [S.S.I. 2007/479](#), [art. 3](#), [Sch.](#)

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**Changes to legislation:** There are currently no known outstanding effects for the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, Cross Heading: Electronic proceedings. (See end of Document for details)

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**I2** S. 41 in force at 1.11.2012 in so far as not already in force by [S.S.I. 2012/274](#), art. 2, [Sch.](#)

## **42 Further provision for summary cases**

- (1) The Scottish Ministers may, in relation to summary criminal proceedings, by order make provision for the purposes of or in connection with—
  - (a) using electronic complaints and other documents in electronic form,
  - (b) keeping, in electronic form, records of proceedings,
  - (c) allowing requirements as to formality (and validity) of documents to be satisfied by electronic means,
  - (d) using electronic communication.
- (2) Provision in an order under subsection (1) may, in particular, relate to—
  - (a) the availability of documents and records in electronic or other form to specified persons or classes of person,
  - (b) the authentication of—
    - (i) documents and records,
    - (ii) information contained in documents and records,
  - (c) the use of electronic signatures in documents and records.
- (3) An order under subsection (1) may make provision by amending the 1995 Act or otherwise.
- (4) In subsection (1), the expressions “electronic complaint” and “electronic communication” are to be construed by reference to section 308A (expressions relating to electronic proceedings) of the 1995 Act.

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### **Commencement Information**

**I3** S. 42 in force at 1.11.2012 by [S.S.I. 2012/274](#), art. 2, [Sch.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the *Criminal Proceedings etc. (Reform) (Scotland) Act 2007*, Cross Heading: Electronic proceedings.