

**Changes to legislation:** Requirements of Writing (Scotland) Act 1995, Paragraph 5 is up to date with all changes known to be in force on or before 26 January 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)

##### *Other bodies corporate*

- 5 (1) This paragraph applies to any body corporate other than a company or a local authority.
- (2) Except where an enactment expressly provides otherwise, where a granter of a [F<sup>1</sup>traditional document] is a body corporate to which this paragraph applies, the document is signed by the body if it is signed on its behalf by—
- (a) a member of the body’s governing board or, if there is no governing board, a member of the body;
  - (b) the secretary of the body by whatever name he is called; or
  - (c) a person authorised to sign the document on behalf of the body.
- (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 [F<sup>2</sup>traditional document] is a body corporate to which this paragraph applies, 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 [F<sup>3</sup>traditional document] bears to have been subscribed on behalf of a body corporate to which paragraph 5 of Schedule 2 to this Act applies by—
    - (i) a member of the body’s governing board or, if there is no governing board, a member of the body;
    - (ii) the secretary of the body; or
    - (iii) a person bearing to have been authorised to subscribe the document on its behalf;
  - (b) the document bears—
    - (i) to have been signed by a person as a witness of the subscription of the member, secretary or other person

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- signing on behalf of the body 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 body; 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 body 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 validly sealed for the reason specified in subsection (4)(h) below,
- the document shall be presumed to have been subscribed by the member, secretary or authorised person (as the case may be) and by the body.
- (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.
- (1B) A presumption under subsection (1) above as to subscription of a document does not include a presumption—
- (a) that a person bearing to subscribe the document as a member of the body’s governing board, a member of the body or the secretary of the body was such member or secretary; or
- (b) that a person subscribing the document on behalf of the body bearing to have been authorised to do so was authorised to do so.”.
- (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 body, 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 body;”.
- (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 [F4traditional document] bears to have been signed on behalf of a body corporate to which paragraph 5 of Schedule 2 to this Act applies by—
- (i) a member of the body’s governing board or, if there is no governing board, a member of the body;
- (ii) the secretary of the body; or
- (iii) a person bearing to have been authorised to sign the alteration on its behalf;
- (b) the alteration bears—
- (i) to have been signed by a person as a witness of the signature of the member, secretary or other person signing on behalf of the body and to state the name and address of the witness; or

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- (ii) (if the signature is not so witnessed), to have been sealed with the common seal of the body; 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 body 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 member, secretary or authorised person (as the case may be) and by the body.
- (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.
- (1B) A presumption under sub-paragraph (1) 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 member of the body’s governing board, a member of the body or the secretary of the body was such member or secretary; or
  - (b) that a person signing the alteration on behalf of the body bearing to have been authorised to do so was authorised to do so.”
- (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 body, 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 body;”

#### Textual Amendments

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

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

- C1** Sch. 2 para. 5(2) applied (2.3.2005) by [The Scrabster Harbour Revision \(Constitution\) Order 2005 \(S.S.I. 2005/133\)](#), **art. 18**

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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\(1\)](#)