

# **CORONAVIRUS (SCOTLAND) ACT 2020**

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## **EXPLANATORY NOTES**

### **DETAIL ABOUT PROVISIONS**

#### *Schedule 4 – Justice*

#### **Part 1 - Courts and tribunals: conduct of business by electronic means**

##### **Suspension of requirements for physical attendance**

104. Paragraph 2(1) suspends any requirement, however expressed in statute or otherwise, that a person physically attend a court or tribunal, unless the court or tribunal directs the person to attend physically.
105. Subparagraph (2) provides that subsection (1) does not suspend any requirement to physically attend a court trial diet.
106. Subparagraph (3) provides that the court may disapply any requirement that a person physically attend a trial diet by directing that the person need not do so.
107. Subparagraph (4) provides that a court or tribunal may require the physical attendance of a person under subparagraph (1) only if allowing a person to attend by electronic means would prejudice the fairness of proceedings, or would otherwise be contrary to the interests of justice.
108. Subparagraph (5) provides that a court can direct a person to attend a trial diet by electronic means under subparagraph (3) only if attendance by electronic means would not prejudice the fairness of proceedings, or otherwise be contrary to the interests of justice.
109. Subparagraph (6) provides that a court or tribunal may issue or revoke a direction under subparagraph (1) or (3) on the motion of a party or of its own accord.
110. Subparagraph (7) provides that the court or tribunal must, in considering whether to issue or revoke a direction under subparagraph (1) or (3), give all parties to the proceedings an opportunity to make representations, and have regard to any guidance issued by the Lord President or the Lord Justice General. Paragraph 5(b) requires that any such guidance be made public.
111. Subparagraph (8) provides that references to physically attending a court or tribunal are to being in a particular place or the same place as another person for the purpose of any “proceedings” (defined in paragraph 6) before a court or tribunal or an office holder of a court or tribunal. The effect of this provision is that applications for warrants, which take place in a judge’s chambers, would be included in a reference to physically attending a court or tribunal.