

# **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**

##### **Attendance by electronic means**

112. Paragraph 3(1) provides that a person excused from a requirement to physically attend a court or tribunal must instead appear by electronic means in accordance with a direction issued by the court or tribunal.
113. Subparagraph (2) provides that where a person fails to attend by electronic means in accordance with such a direction, they are to be regarded as having failed to comply with the requirement to physically attend from which they were excused under paragraph 2.
114. Subparagraph (3) provides that a court or tribunal may vary or revoke a direction made under subparagraph (1).
115. Subparagraph (4) provides that a direction is to set out how a person is to appear by electronic means before the court, tribunal or office holder, and may include any other provision the court or tribunal considers appropriate.
116. Subparagraph (5) provides that a court or tribunal may issue a direction under subparagraph (1) on the motion of a party or of its own accord.
117. Subparagraph (6) provides that before issuing a direction under subparagraph (1) the court or tribunal must give all parties 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.
118. Subparagraph (7) provides that a direction under subparagraph (1) must ensure that a party to trial proceedings, which includes an accused person, uses electronic means that enables the party to both see and hear all of the other participants in a hearing, including any witness who is giving evidence. A direction to a witness who is giving evidence at a trial using electronic means must enable all of the other participants in the trial, which includes an accused person, to both see and hear the witness. Any direction by a court or tribunal which is not in relation to trial proceedings sets no specific requirements.
119. Subparagraph (8) provides that nothing in subparagraph (7) is to be taken to mean that a person is to be enabled to see or hear a witness in a way that measures taken in accordance with an order of the court or tribunal, such as special measures in relation to a vulnerable witness, would otherwise prevent.