

Status: Point in time view as at 07/04/2020.

Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) Act 2020, Cross Heading: Electronic signatures and transmission of documents. (See end of Document for details)

SCHEDULE 4 JUSTICE

PART 1

COURTS AND TRIBUNALS: CONDUCT OF BUSINESS BY ELECTRONIC MEANS

Electronic signatures and transmission of documents

- 1 (1) An electronic signature fulfils any requirement (however expressed and for whatever purpose) that—
- (a) a document of a type mentioned in sub-paragraph (4), or
 - (b) a deletion or correction to such a document,
- be signed, initialled or signetted.
- (2) Any requirement (however expressed) that a document of a type mentioned in sub-paragraph (4) be given to a person may be fulfilled by—
- (a) transmitting it to the person electronically, or
 - (b) transmitting it (electronically or otherwise) to a solicitor engaged to act on the person's behalf in relation to the proceedings in question.
- (3) For the purposes of sub-paragraph (2)—
- (a) electronic transmission of a document by one person (“the sender”) to another person (“the recipient”) must be effected in a way that the recipient has indicated to the sender that the recipient is willing to receive the document,
 - (b) the recipient's indication of willingness to receive a document in a particular way may be—
 - (i) specific to the document in question or generally applicable to documents of that kind,
 - (ii) expressed specifically to the sender or generally (for example on a website),
 - (iii) inferred from the recipient having previously been willing to receive documents from the sender in that way and not having indicated unwillingness to do so again,
 - (c) the sender's uploading of a document to an electronic storage system from which the recipient is able to download the document may constitute electronic transmission of the document from the sender to the recipient.
- (4) The types of document referred to in sub-paragraphs (1) and (2) are (subject to sub-paragraph (5))—
- (a) an order, warrant, sentence, citation, minute or any other document produced by a court or tribunal,
 - (b) an extract of any document referred to in paragraph (a),
 - (c) any document that an enactment requires be given to a person in connection with, or in order to initiate, proceedings.
- (5) A type of document mentioned in sub-paragraph (4) is not to be regarded as being mentioned in that sub-paragraph, for the purposes of sub-paragraph (1) or (2) (or both), if—
- (a) the Lord President of the Court of Session, or

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(b) the Lord Justice General,
directs that it is not.

(6) A direction under sub-paragraph (5) may relate to some or all proceedings.

(7) In this paragraph—

- (a) “court” includes any office holder of a court,
- (b) “document” includes a copy of a document,
- (c) “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,
- (d) references to giving a person a document include—
 - (i) serving a document on a person,
 - (ii) sending a document to a person, and
 - (iii) lodging a document with, or otherwise applying to or petitioning, a court or tribunal,
- (e) “tribunal” includes any office holder of a tribunal.

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