
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 65

The Registers of Scotland (Digital Registration, etc.) Regulations 2022

Annexations to electronic documents

4.—(1) The E-Documents Regulations are amended as follows.

(2) In regulation 1(2) (interpretation), after the definition of “private key”, insert—

““qualified electronic signature” means a qualified electronic signature as defined in Article 3(12) of [Regulation \(EU\) No 910/2014](#) of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market⁽¹⁾.”

(3) In regulation 3 (requirements of self-proving electronic document), for the words from “must be” to the end of paragraph (b) substitute “must be a qualified electronic signature”.

(4) For regulation 4 (annexations to electronic documents), substitute—

“4.—(1) Subject to paragraphs (2) and (3) and except where an enactment expressly otherwise provides, any annexation to an electronic document is to be regarded as incorporated in the document if it is—

- (a) referred to in the document, and
- (b) identified on its face as being the annexation referred to in the document,

without the annexation having to be authenticated.

(2) Where writing is required under section 1(2) of the 1995 Act for an electronic document, an annexation to it is to be regarded as incorporated in the document if and only if it is—

- (a) referred to in the document,
- (b) identified on its face as being the annexation referred to in the document, and
- (c) annexed to the document before an electronic signature under regulation 2 or 3 is incorporated into or logically associated with the document and the annexation.

(3) Where writing is not required under section 1(2) of the 1995 Act for an electronic document which relates to land and an annexation to it describes or shows all or any part of the land to which the document relates, the annexation is to be regarded as incorporated in the document if and only if it—

- (a) is referred to in the document,
- (b) is identified on its face as being the annexation referred to in the document, and
- (c) meets one of the conditions in paragraph (4)(a) or (b).

(4) Those conditions are that—

- (a) the annexation is annexed to the document before an advanced electronic signature or a qualified electronic signature is incorporated into or logically associated with the document and the annexation, or
 - (b) the annexation is authenticated with an electronic signature which is neither an advanced electronic signature nor a qualified electronic signature, on—
 - (i) each page, where it is a plan, drawing, photograph or other representation, or
 - (ii) the last page, where it is an inventory, appendix, schedule or other writing.
- (5) In respect of any annexation referred to in paragraph (4)(b)—
- (a) if it bears to have been authenticated by a granter of the document it is presumed to have been authenticated by the person who authenticated the document as that granter,
 - (b) it is competent to sign it at any time before the document is founded on in legal proceedings,
 - (c) where there is more than one granter, the requirement under paragraph (4)(b)(ii) of signing on the last page is complied with (provided that at least one granter signs at the end of the last page) if any other granter signs on an additional page.”.
- (5) In regulation 6(1)(b) (registration of electronic documents in the Land Register and Register of Sasines)—
- (a) omit “the type of electronic signature”,
 - (b) at the beginning of head (i), insert “the type of electronic signature”, and
 - (c) for head (ii), substitute—
 - “(ii) a qualified electronic signature;”.