Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Requirements of Writing (Scotland) Act 1995. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Requirements of Writing (Scotland) Act 1995

1995 CHAPTER 7

[F1 PART 1]

[F2 WHEN WRITING IS REQUIRED]

Annotations:

Amendments (Textual)

F1 S. 1 renumbered as Pt. 1 (11.5.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 96(3), 122, 123 (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2 (with arts. 3, 4)

F2 Pt. 1 heading inserted (11.5.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 96(4), 122, 123 (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2

1 Writing required for certain contracts, obligations, trusts, conveyances and wills.

(1) Subject to subsection (2) below and any other enactment, writing shall not be required for the constitution of a contract, unilateral obligation or trust.

(2) Subject to [F3]subsection [F4] (3) below, a written document[F5] which is a traditional document[F6] complying with section 2[F7] or an electronic document complying with section 9B] of this Act shall be required for—

(a) the constitution of—

(i) a contract or unilateral obligation for the creation, transfer, variation or extinction of [F7] a real right] in land;

(ii) a gratuitous unilateral obligation except an obligation undertaken in the course of business; and

(iii) a trust whereby a person declares himself to be sole trustee of his own property or any property which he may acquire;
(b) the creation, transfer, variation or extinction of a real right in land otherwise than by the operation of a court decree, enactment or rule of law; and

(f)(ba) the constitution of an agreement under section 66(1) of the Land Registration etc. (Scotland) Act 2012 (asp 5).

(c) the making of any will, testamentary trust disposition and settlement or codicil.

(f)(2A) ............................................

(f)(2B) ............................................

(3) Where a contract, obligation or trust mentioned in (f)(2)(a) above is not constituted in a ... document complying with section 2 or, as the case may be, section 9B of this Act, but one of the parties to the contract, a creditor in the obligation or a beneficiary under the trust (“the first person”) has acted or refrained from acting in reliance on the contract, obligation or trust with the knowledge and acquiescence of the other party to the contract, the debtor in the obligation or the trustor (“the second person”)—

(a) the second person shall not be entitled to withdraw from the contract, obligation or trust; and

(b) the contract, obligation or trust shall not be regarded as invalid, on the ground that it is not so constituted, if the condition set out in subsection (4) below is satisfied.

(4) The condition referred to in subsection (3) above is that the position of the first person—

(a) as a result of acting or refraining from acting as mentioned in that subsection has been affected to a material extent; and

(b) as a result of such a withdrawal as is mentioned in that subsection would be adversely affected to a material extent.

(5) In relation to the constitution of any contract, obligation or trust mentioned in (f)(2)(a) above, subsections (3) and (4) above replace the rules of law known as rei interventus and homologation.

(6) This section shall apply to the variation of a contract, obligation or trust as it applies to the constitution thereof but as if in subsections (3) and (4) for the references to acting or refraining from acting in reliance on the contract, obligation or trust and withdrawing therefrom there were substituted respectively references to acting or refraining from acting in reliance on the variation of the contract, obligation or trust and withdrawing from the variation.

(7) In this section “real right in land” means any real right in or over land, including any right to occupy or to use land or to restrict the occupation or use of land, but does not include—

(a) a tenancy;

(b) a right to occupy or use land; or

(c) a right to restrict the occupation or use of land,

if the tenancy or right is not granted for more than one year, unless the tenancy or right is for a recurring period or recurring periods and there is a gap of more than one year between the beginning of the first, and the end of the last, such period.
For the purposes of subsection (7) above “land” does not include—

(a) growing crops; or

(b) a moveable building or other moveable structure.

Annotations:

Amendments (Textual)

F3 Words in s. 1(2) substituted (5.10.2006) by The Automated Registration of Title to Land (Electronic Communications) (Scotland) Order 2006 (S.S.I. 2006/491), art. 3(1)

F4 Word in s. 1(2) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 96(2)(a)(i), 122, 123 (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (see S.S.I. 2014/127, art. 2)

F5 Words in s. 1(2) inserted (11.5.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 96(2)(a)(ii), 122, 123 (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2

F6 Words in s. 1(2) inserted (11.5.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 96(2)(a)(iii), 122, 123 (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2

F7 Words in s. 1(2)(a)(i)(b) substituted (28.11.2004) by The Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 76(1), 77, Sch. 12 Pt. 1 para. 58(a) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F8 S. 1(2)(ba) inserted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 96(2)(a)(iv), 122, 123 (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (see S.S.I. 2014/127, art. 2)


F10 Words in s. 1(3) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 96(2)(b)(i), 122, 123 (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (see S.S.I. 2014/127, art. 2)

F11 Word in s. 1(3) repealed (11.5.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 96(2)(b)(ii), 122, 123 (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2

F12 Words in s. 1(3) substituted (5.10.2006) by The Automated Registration of Title to Land (Electronic Communications) (Scotland) Order 2006 (S.S.I. 2006/491), art. 3(3)(a)

F13 Words in s. 1(3) substituted (11.5.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 96(2)(b)(iii), 122, 123 (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(b)(2), Sch. Pt. 2

F14 Words in s. 1(5) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 96(2)(c), 122, 123 (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (see S.S.I. 2014/127, art. 2)

F15 Words in s. 1(7) substituted (28.11.2004) by The Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5, ss. 71, 76(1), 77, Sch. 12 Pt. 1 para. 58(b) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F16 S. 1(7A) inserted (1.12.2017) by Private Housing (Tenancies) (Scotland) Act 2016 (asp 19), s. 79(2), sch. 4 para. 6; S.S.I. 2017/346, reg. 2, sch.

Modifications etc. (not altering text)

C1 S. 1(2)(a)(ii) excluded (and s. 1(2) modified) (6.3.2009) by The Unit Trusts (Electronic Communications) Order 2009 (S.S.I. 2009/555), art. 4.
Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Requirements of Writing (Scotland) Act 1995. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details.)

**Changes to legislation:**
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Requirements of Writing (Scotland) Act 1995. Any changes that have already been made by the team appear in the content and are referenced with annotations.

<table>
<thead>
<tr>
<th>Changes and effects yet to be applied to the whole Act associated Parts and Chapters:</th>
</tr>
</thead>
<tbody>
<tr>
<td>– Act applied by S.S.I. 2019/136 art. 13(1)</td>
</tr>
<tr>
<td>Whole provisions yet to be inserted into this Act (including any effects on those provisions):</td>
</tr>
<tr>
<td>– s. 6(1)(aa) inserted by 2007 asp 3 s. 48(1)</td>
</tr>
</tbody>
</table>