Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 2

Section 7(7)

SUBSCRIPTION AND SIGNING: SPECIAL CASES

Modifications etc. (not altering text)

C1 Sch. 2 applied (with modifications) (temp.) (11.5.2014) by The Land Registration etc. (Scotland) Act 2012 (Commencement No. 2 and Transitional Provisions) Order 2014 (S.S.I. 2014/41), **art. 4** (see S.S.I. 2014/127, art. 2)

General

1 Any reference in this Act to subscription or signing by a granter of a **[**[F1]traditional document**]** or an alteration to a document, in a case where the granter is a person to whom any of paragraphs 2 to 6 of this Schedule applies shall, unless the context otherwise requires, be construed as a reference to subscription or, as the case may be, signing of the document or alteration by a person in accordance with that paragraph.

Textual Amendments

F1 Words in Sch. 2 para. 1 substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

Partnerships

2 (1) Except where an enactment expressly provides otherwise, where a granter of a **[**[F2]traditional document**]** is a partnership, the document is signed by the partnership if it is signed on its behalf by a partner or by a person authorised to sign the document on its behalf.

(2) A person signing on behalf of a partnership under this paragraph may use his own name or the firm name.

(3) Sub-paragraphs (1) and (2) of this paragraph apply in relation to the signing of an alteration made to a document as they apply in relation to the signing of a document.

(4) In this paragraph "partnership" has the same meaning as in section 1 of the [M1]Partnership Act 1890.

Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F2 Words in Sch. 2 para. 2(1) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(b)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

Marginal Citations

M1 1890 c. 39.

Companies

3 (1) Except where an enactment expressly provides otherwise, where a granter of a **[**[F3]traditional document**]** is a company, the document is signed by the company if it is signed on its behalf by a director, or by the secretary, of the company or by a person authorised to sign the document on its behalf.

(2) This Act is without prejudice to—

[[F4](a) sections 270(3) and 274 of the Companies Act 2006; and**]**

(b) paragraph 9 of Schedule 1, paragraph 9 of Schedule 2, and paragraph 7 of Schedule 4, to the [M2]Insolvency Act 1986.

(3) Sub-paragraphs (1) and (2) of this paragraph apply in relation to the signing of an alteration made to a document as they apply in relation to the signing of a document.

(4) Where a granter of a **[**[F5]traditional document**]** is a company, section 3 of and Schedule 1 to this Act shall have effect subject to the modifications set out in sub-paragraphs (5) and (6) below.

(5) In section 3—

(a) for subsection (1) there shall be substituted the following subsections—

"(1) Subject to subsections (1A) to (7) below, where—

(a) a **[**[F6]traditional document**]** bears to have been subscribed on behalf of a company by a director, or by the secretary, of the company or by a person bearing to have been authorised to subscribe the document on its behalf;

(b) the document bears to have been signed by a person as a witness of the subscription of the director, secretary or other person subscribing on behalf of the company and to state the name and address of the witness; and

(c) nothing in the document, or in the testing clause or its equivalent, indicates—

(i) that it was not subscribed on behalf of the company as it bears to have been so subscribed; or

(ii) that it was not validly witnessed for any reason specified in paragraphs (a) to (e) of subsection (4) below,

the document shall be presumed to have been subscribed by the company.

Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(1A) Where a document does not bear to have been signed by a person as a witness of the subscription of the director, secretary or other person subscribing on behalf of the company it shall be presumed to have been subscribed by the company if it bears to have been subscribed on behalf of the company by—

(a) two directors of the company; or

(b) a director and secretary of the company; or

(c) two persons bearing to have been authorised to subscribe the document on its behalf.

(1B) For the purposes of subsection (1)(b) above, the name and address of the witness may bear to be stated in the document itself or in the testing clause or its equivalent.

(1C) A presumption under subsection (1) or (1A) above as to subscription of a document does not include a presumption—

(a) that a person bearing to subscribe the document as a director or the secretary of the company was such director or secretary; or

(b) that a person subscribing the document on behalf of the company bearing to have been authorised to do so was authorised to do so.";

(b) in subsection (4) after paragraph (g) there shall be inserted the following paragraph—

"(h) if the document does not bear to have been witnessed, but bears to have been subscribed on behalf of the company by two of the directors of the company, or by a director and secretary of the company, or by two authorised persons, that a signature bearing to be the signature of a director, secretary or authorised person is not such a signature, whether by reason of forgery or otherwise;".

(6) In paragraph 1 of Schedule 1—

(a) for sub-paragraph (1) there shall be substituted the following sub-paragraphs—

"(1) Subject to sub-paragraphs (1A) to (7) below, where—

(a) an alteration to a **[**[F7]traditional document**]** bears to have been signed on behalf of a company by a director, or by the secretary, of the company or by a person bearing to have been authorised to sign the alteration on its behalf;

(b) the alteration bears to have been signed by a person as a witness of the signature of the director, secretary or other person signing on behalf of the company and to state the name and address of the witness; and

(c) nothing in the document or alteration, or in the testing clause or its equivalent, indicates—

(i) that the alteration was not signed on behalf of the company as it bears to have been so signed; or

Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(ii) that the alteration was not validly witnessed for any reason specified in paragraphs (a) to (e) of sub-paragraph (4) below,

the alteration shall be presumed to have been signed by the company.

(1A) Where an alteration does not bear to have been signed by a person as a witness of the signature of the director, secretary or other person signing on behalf of the company it shall be presumed to have been signed by the company if it bears to have been signed on behalf of the company by—

(a) two directors of the company; or

(b) a director and secretary of the company; or

(c) two persons bearing to have been authorised to sign the alteration on its behalf.

(1B) For the purposes of sub-paragraph (1)(b) above, the name and address of the witness may bear to be stated in the alteration itself or in the testing clause or its equivalent.

(1C) A presumption under sub-paragraph (1) or (1A) above as to signing of an alteration to a document does not include a presumption—

(a) that a person bearing to sign the alteration as a director or the secretary of the company was such director or secretary; or

(b) that a person signing the alteration on behalf of the company bearing to have been authorised to do so was authorised to do so.";

(b) in sub-paragraph (4) after paragraph (g) there shall be inserted the following paragraph—

"(h) if the alteration does not bear to have been witnessed, but bears to have been signed on behalf of the company by two of the directors of the company, or by a director and secretary of the company, or by two authorised persons, that a signature bearing to be the signature of a director, secretary or authorised person is not such a signature, whether by reason of forgery or otherwise;".

Textual Amendments

F3 Words in Sch. 2 para. 3(1) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(c)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F4 Sch. 2 para. 3(2)(a) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2, 3(1)(b), **Sch. 1 para. 199** (with arts. 6, 11, 12)

F5 Words in Sch. 2 para. 3(4) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(c)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F6 Words in Sch. 2 para. 3(5)(a) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(c)(iii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F7 Words in Sch. 2 para. 3(6)(a) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(c)(iv)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Marginal Citations

M2 1986 c. 45.

[F8 Limited Liability Partnerships

Textual Amendments

F8 Sch. 2 para. 3A and heading inserted (6.4.2001) by S.S.I. 2001/128, **reg. 5 Sch. 4 para. 5**

F9 3A (1) Except where an enactment expressly provides otherwise, where a granter of a **[**F10 traditional document**]** is a limited liability partnership, the document is signed by the limited liability partnership if it is signed on its behalf by a member of the limited liability partnership.

(2) This Act is without prejudice to paragraph 9 of Schedule 1, paragraph 9 of Schedule 2, and paragraph 7 of Schedule 4, to the Insolvency Act 1986.

(3) Sub-paragraphs (1) and (2) of this paragraph apply in relation to the signing of an alteration made to a document as they apply in relation to the signing of a document.

(4) Where a granter of a **[**F11 traditional document**]** is a limited liability partnership, section 3 of and Schedule 1 to this Act shall have effect subject to the modifications set out in sub-paragraphs (5) and (6) below.

(5) In section 3–

(a) for subsection (1) there shall be substituted the following subsections– "

(1) Subject to subsections (1A) to (7) below, where–

(a) a **[**F12 traditional document**]** bears to have been subscribed on behalf of a limited liability partnership by a member of the limited liability partnership;

(b) the document bears to have been signed by a person as a witness of the subscription of the member of the limited liability partnership and to state the name and address of the witness; and

(c) nothing in the document, or in the testing clause or its equivalent, indicates–

(i) that it was not subscribed on behalf of the limited liability partnership as it bears to have been so subscribed; or

(ii) that it was not validly witnessed for any reason specified in paragraphs (a) to (e) of subsection (4) below,

the document shall be presumed to have been subscribed by the limited liability partnership.

(1A) Where a document does not bear to have been signed by a person as a witness of the subscription of the member of the limited liability partnership it shall be presumed to have been subscribed by the limited liability partnership if it bears to have been subscribed on behalf of the limited liability partnership by two members of the limited liability partnership.

(1B) A presumption under subsection (1) or (1A) above as to subscription of a document does not include a presumption that a person bearing to subscribe the document as a member of the limited liability partnership was such member. ";

Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(b) in subsection (4) after paragraph (g) there shall be inserted the following paragraph– "

(h) if the document does not bear to have been witnessed, but bears to have been subscribed on behalf of the limited liability partnership by two of the members of the limited liability partnership, that a signature bearing to be the signature of a member is not such a signature, whether by reason of forgery or otherwise; ".

(6) In paragraph 1 of Schedule 1–

(a) for sub-paragraph (1) there shall be substituted the following sub-paragraphs– "

(1) Subject to sub-paragraphs (1A) to (7) below, where–

(a) an alteration to a **[**[F13]traditional document**]** bears to have been signed on behalf of a limited liability partnership by a member of the limited liability partnership;

(b) the alteration bears to have been signed by a person as a witness of the signature of the member of the limited liability partnership and to state the name and address of the witness; and

(c) nothing in the document or alteration, or in the testing clause or its equivalent, indicates–

(i) that the alteration was not signed on behalf of the limited liability partnership as it bears to have been so signed; or

(ii) that the alteration was not validly witnessed for any reason specified in paragraphs (a) to (e) of sub-paragraph (4) below,

the alteration shall be presumed to have been signed by the limited liability partnership.

(1A) Where an alteration does not bear to have been signed by a person as a witness of the signature of the member of the limited liability partnership it shall be presumed to have been signed by the limited liability partnership if it bears to have been signed on behalf of the limited liability partnership by two members of the limited liability partnership.

(1B) For the purposes of sub-paragraph (1)(b) above, the name and address of the witness may bear to be stated in the alteration itself or in the testing clause or its equivalent.

(1C) A presumption under sub-paragraph (1) or (1A) above as to signing of an alteration to a document does not include a presumption that a person bearing to sign the alteration as a member of the limited liability partnership was such member ";

(b) in sub-paragraph (4) after paragraph (g) there shall be inserted the following– "

; or

(h) if the alteration does not bear to have been witnessed, but bears to have been signed on behalf of the limited liability partnership by two of the members of the limited liability partnership, that a signature bearing to be the signature of a member is not such a signature, whether by reason of forgery or otherwise; ".**]**

Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F9 Sch. 2 para. 3A and heading inserted (6.4.2001) by S.S.I. 2001/128, **reg. 5 Sch. 4 para. 5**

F10 Words in Sch. 2 para. 3A(1) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(d)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F11 Words in Sch. 2 para. 3A(4) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(d)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F12 Words in Sch. 2 para. 3A(5)(a) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(d)(iii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F13 Words in Sch. 2 para. 3A(6)(a) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(d)(iv)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

Local authorities

4 (1) Except where an enactment expressly provides otherwise, where a granter of a **[**[F14]traditional document**]** is a local authority, the document is signed by the authority if it is signed on their behalf by the proper officer of the authority.

(2) For the purposes of the signing of a document under this paragraph, a person purporting to sign on behalf of a local authority as an officer of the authority shall be presumed to be the proper officer of the authority.

(3) Sub-paragraphs (1) and (2) of this paragraph apply in relation to the signing of an alteration made to a document as they apply in relation to the signing of a document.

(4) Where a granter of a **[**[F15]traditional document**]** is a local authority, section 3 of and Schedule 1 to this Act shall have effect subject to the modifications set out in sub-paragraphs (5) to (8) below.

(5) For section 3(1) there shall be substituted the following subsections—

"(1) Subject to subsections (1A) to (7) below, where—

(a) a **[**[F16]traditional document**]** bears to have been subscribed on behalf of a local authority by the proper officer of the authority;

(b) the document bears—

(i) to have been signed by a person as a witness of the proper officer's subscription and to state the name and address of the witness; or

(ii) (if the subscription is not so witnessed), to have been sealed with the common seal of the authority; and

(c) nothing in the document, or in the testing clause or its equivalent, indicates—

(i) that it was not subscribed on behalf of the authority as it bears to have been so subscribed; or

(ii) that it was not validly witnessed for any reason specified in paragraphs (a) to (e) of subsection (4) below or that it was not sealed as it bears to have been sealed or that it was not

Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

validly sealed for the reason specified in subsection (4)(h) below,

the document shall be presumed to have been subscribed by the proper officer and by the authority.

(1A) For the purposes of subsection (1)(b)(i) above, the name and address of the witness may bear to be stated in the document itself or in the testing clause or its equivalent.”.

(6) In section 3(4) after paragraph (g) there shall be inserted the following paragraph—

“(h) if the document does not bear to have been witnessed, but bears to have been sealed with the common seal of the authority, that it was sealed by a person without authority to do so or was not sealed on the date on which it was subscribed on behalf of the authority;”.

(7) For paragraph 1(1) of Schedule 1 there shall be substituted the following sub-paragraphs—

“(1) Subject to sub-paragraphs (1A) to (7) below, where—

(a) an alteration to a **[**[F17]traditional document**]** bears to have been signed on behalf of a local authority by the proper officer of the authority;

(b) the alteration bears—

(i) to have been signed by a person as a witness of the proper officer’s signature and to state the name and address of the witness; or

(ii) (if the signature is not so witnessed), to have been sealed with the common seal of the authority; and

(c) nothing in the document or alteration, or in the testing clause or its equivalent, indicates—

(i) that the alteration was not signed on behalf of the authority as it bears to have been so signed; or

(ii) that the alteration was not validly witnessed for any reason specified in paragraphs (a) to (e) of sub-paragraph (4) below or that it was not sealed as it bears to have been sealed or that it was not validly sealed for the reason specified in sub-paragraph (4)(h) below,

the alteration shall be presumed to have been signed by the proper officer and by the authority.

(1A) For the purposes of sub-paragraph (1)(b)(i) above, the name and address of the witness may bear to be stated in the alteration itself or in the testing clause or its equivalent.”.

(8) In paragraph 1(4) of Schedule 1 after paragraph (g) there shall be inserted the following paragraph—

“(h) if the alteration does not bear to have been witnessed, but bears to have been sealed with the common seal of the authority, that it was sealed by a person without authority to do so or was not sealed on the date on which it was signed on behalf of the authority;”.

***Changes to legislation:** Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F14 Words in Sch. 2 para. 4(1) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(e)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F15 Words in Sch. 2 para. 4(4) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(e)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F16 Words in Sch. 2 para. 4(5) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(e)(iii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F17 Words in Sch. 2 para. 4(7) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(e)(iv)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

Other bodies corporate

5 (1) This paragraph applies to any body corporate other than a company or a local authority.

(2) Except where an enactment expressly provides otherwise, where a granter of a **[**[F18]traditional document**]** is a body corporate to which this paragraph applies, the document is signed by the body if it is signed on its behalf by—

(a) a member of the body's governing board or, if there is no governing board, a member of the body;

(b) the secretary of the body by whatever name he is called; or

(c) a person authorised to sign the document on behalf of the body.

(3) Sub-paragraphs (1) and (2) of this paragraph apply in relation to the signing of an alteration made to a document as they apply in relation to the signing of a document.

(4) Where a granter of a **[**[F19]traditional document**]** is a body corporate to which this paragraph applies, section 3 of and Schedule 1 to this Act shall have effect subject to the modifications set out in sub-paragraphs (5) to (8) below.

(5) For section 3(1) there shall be substituted the following subsections—

"(1) Subject to subsections (1A) to (7) below, where—

(a) a **[**[F20]traditional document**]** bears to have been subscribed on behalf of a body corporate to which paragraph 5 of Schedule 2 to this Act applies by—

(i) a member of the body's governing board or, if there is no governing board, a member of the body;

(ii) the secretary of the body; or

(iii) a person bearing to have been authorised to subscribe the document on its behalf;

(b) the document bears—

(i) to have been signed by a person as a witness of the subscription of the member, secretary or other person signing on behalf of the body and to state the name and address of the witness; or

Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(ii) (if the subscription is not so witnessed), to have been sealed with the common seal of the body; and

(c) nothing in the document, or in the testing clause or its equivalent, indicates—

(i) that it was not subscribed on behalf of the body as it bears to have been so subscribed; or

(ii) that it was not validly witnessed for any reason specified in paragraphs (a) to (e) of subsection (4) below or that it was not sealed as it bears to have been sealed or that it was not validly sealed for the reason specified in subsection (4)(h) below,

the document shall be presumed to have been subscribed by the member, secretary or authorised person (as the case may be) and by the body.

(1A) For the purposes of subsection (1)(b)(i) above, the name and address of the witness may bear to be stated in the document itself or in the testing clause or its equivalent.

(1B) A presumption under subsection (1) above as to subscription of a document does not include a presumption—

(a) that a person bearing to subscribe the document as a member of the body's governing board, a member of the body or the secretary of the body was such member or secretary; or

(b) that a person subscribing the document on behalf of the body bearing to have been authorised to do so was authorised to do so.".

(6) In section 3(4) after paragraph (g) there shall be inserted the following paragraph—

"(h) if the document does not bear to have been witnessed, but bears to have been sealed with the common seal of the body, that it was sealed by a person without authority to do so or was not sealed on the date on which it was subscribed on behalf of the body;".

(7) For paragraph 1(1) of Schedule 1 there shall be substituted the following sub-paragraphs—

"(1) Subject to sub-paragraphs (1A) to (7) below, where—

(a) an alteration to a **[**[F21]traditional document**]** bears to have been signed on behalf of a body corporate to which paragraph 5 of Schedule 2 to this Act applies by—

(i) a member of the body's governing board or, if there is no governing board, a member of the body;

(ii) the secretary of the body; or

(iii) a person bearing to have been authorised to sign the alteration on its behalf;

(b) the alteration bears—

(i) to have been signed by a person as a witness of the signature of the member, secretary or other person signing on behalf of the body and to state the name and address of the witness; or

(ii) (if the signature is not so witnessed), to have been sealed with the common seal of the body; and

Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(c) nothing in the document or alteration, or in the testing clause or its equivalent, indicates—

(i) that the alteration was not signed on behalf of the body as it bears to have been so signed; or

(ii) that the alteration was not validly witnessed for any reason specified in paragraphs (a) to (e) of sub-paragraph (4) below or that it was not sealed as it bears to have been sealed or that it was not validly sealed for the reason specified in sub-paragraph (4)(h) below,

the alteration shall be presumed to have been signed by the member, secretary or authorised person (as the case may be) and by the body.

(1A) For the purposes of sub-paragraph (1)(b)(i) above, the name and address of the witness may bear to be stated in the alteration itself or in the testing clause or its equivalent.

(1B) A presumption under sub-paragraph (1) above as to signing of an alteration to a document does not include a presumption—

(a) that a person bearing to sign the alteration as a member of the body's governing board, a member of the body or the secretary of the body was such member or secretary; or

(b) that a person signing the alteration on behalf of the body bearing to have been authorised to do so was authorised to do so.".

(8) In paragraph 1(4) of Schedule 1 after paragraph (g) there shall be inserted the following paragraph—

"(h) if the alteration does not bear to have been witnessed, but bears to have been sealed with the common seal of the body, that it was sealed by a person without authority to do so or was not sealed on the date on which it was signed on behalf of the body;".

Textual Amendments

F18 Words in Sch. 2 para. 5(2) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(f)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F19 Words in Sch. 2 para. 5(4) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(f)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F20 Words in Sch. 2 para. 5(5) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(f)(iii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F21 Words in Sch. 2 para. 5(7) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(f)(iv)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

Modifications etc. (not altering text)

C2 Sch. 2 para. 5(2) applied (2.3.2005) by The Scrabster Harbour Revision (Constitution) Order 2005 (S.S.I. 2005/133), **art. 18**

Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Ministers of the Crown and office-holders

6 (1) Except where an enactment expressly provides otherwise, where a granter of a **[**[F22]traditional document**]** is a Minister or an office-holder, the document is signed by the Minister or office-holder if it is signed—

(a) by him personally; or

(b) in a case where by virtue of any enactment or rule of law a document by a Minister may be signed by an officer of his or by any other Minister, by that officer or by that other Minister as the case may be; or

(c) in a case where by virtue of any enactment or rule of law a document by an office-holder may be signed by an officer of his, by that officer; or

(d) by any other person authorised to sign the document on his behalf.

(2) For the purposes of the signing of a document under this paragraph, a person purporting to sign—

(a) as an officer as mentioned in sub-paragraph (1)(b) or (1)(c) above;

(b) as another Minister as mentioned in sub-paragraph (1)(b) above;

(c) as a person authorised as mentioned in sub-paragraph (1)(d) above,

shall be presumed to be the officer, other Minister or authorised person, as the case may be.

(3) Sub-paragraphs (1) and (2) of this paragraph are without prejudice to section 3 of and Schedule 1 to the [M3]Ministers of the Crown Act 1975.

(4) Sub-paragraphs (1) to (3) of this paragraph apply in relation to the signing of an alteration made to a document as they apply in relation to the signing of a document.

(5) Where a granter of a **[**[F23]traditional document**]** is a Minister or office-holder, section 3 of and Schedule 1 to this Act shall have effect subject to the modifications set out in sub-paragraphs (6) and (7) below.

(6) For section 3(1) there shall be substituted the following subsections—

"(1) Subject to subsections (1A) to (7) below, where—

(a) a **[**[F24]traditional document**]** bears to have been subscribed—

(i) by a Minister or, in a case where by virtue of any enactment or rule of law a document by a Minister may be signed by an officer of his or by any other Minister, by that officer or by that other Minister; or

(ii) by an office-holder or, in a case where by virtue of any enactment or rule of law a document by an office-holder may be signed by an officer of his, by that officer; or

(iii) by any other person bearing to have been authorised to subscribe the document on behalf of the Minister or office-holder;

(b) the document bears to have been signed by a person as a witness of the subscription mentioned in paragraph (a) above and to state the name and address of the witness; and

(c) nothing in the document, or in the testing clause or its equivalent, indicates—

(i) that it was not subscribed as it bears to have been subscribed; or

Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(ii) that it was not validly witnessed for any reason specified in paragraphs (a) to (e) of subsection (4) below,

the document shall be presumed to have been subscribed by the officer, other Minister or authorised person and by the Minister or office-holder, as the case may be.

(1A) For the purposes of subsection (1)(b) above, the name and address of the witness may bear to be stated in the document itself or in the testing clause or its equivalent.".

(7) For paragraph 1(1) of Schedule 1 there shall be substituted the following sub-paragraphs—

"(1) Subject to sub-paragraphs (1A) to (7) below, where—

(a) an alteration to a **[**[F25]traditional document**]** bears to have been signed by—

(i) a Minister or, in a case where by virtue of any enactment or rule of law a document by a Minister may be signed by an officer of his or by any other Minister, by that officer or by that other Minister; or

(ii) an office-holder or, in a case where by virtue of any enactment or rule of law a document by an office-holder may be signed by an officer of his, by that officer; or

(iii) any other person bearing to have been authorised to sign the alteration on behalf of the Minister or office-holder;

(b) the alteration bears to have been signed by a person as a witness of the signature mentioned in paragraph (a) above and to state the name and address of the witness; and

(c) nothing in the document or alteration, or in the testing clause or its equivalent, indicates—

(i) that the alteration was not signed as it bears to have been signed; or

(ii) that the alteration was not validly witnessed for any reason specified in paragraphs (a) to (e) of sub-paragraph (4) below,

the alteration shall be presumed to have been signed by the officer, other Minister or authorised person and by the Minister or office-holder, as the case may be.

(1A) For the purposes of sub-paragraph (1)(b) above, the name and address of the witness may bear to be stated in the alteration itself or in the testing clause or its equivalent.".

Textual Amendments

F22 Words in Sch. 2 para. 6(1) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(g)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F23 Words in Sch. 2 para. 6(5) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(g)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

Changes to legislation: *Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F24 Words in Sch. 2 para. 6(6) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(g)(iii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

F25 Words in Sch. 2 para. 6(7) substituted (8.12.2014 for specified purposes) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 3 para. 25(g)(iv)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/41, art. 2(1)(c)(2), Sch. Pt. 3 (with arts. 3, 4) (see S.S.I. 2014/127, art. 2)

Modifications etc. (not altering text)

C3 Sch. 2 para. 6 applied (1.4.2000) by S.S.I. 2000/47 art. 5, Sch. Pt. II
Sch. 2 para. 6 applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), **Sch. Pt. II**
Sch. 2 para. 6 applied (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. II** (with art. 4(4))
Sch. 2 para. 6 applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), **Sch. Pt. II** (with art. 4(4))

C4 Sch. 2 para. 6 applied by S.I. 1990/2639 art. 4(3)(b) (as substituted (1.4.2003) by The Health Education Board for Scotland Amendment Order 2003 (S.S.I. 2003/154), **art. 5(3)**)

C5 Sch. 2 para. 6 applied (7.12.2019) by The Public Health Scotland Order 2019 (S.S.I. 2019/336), art. 1(2), **sch. 1 Pt. 2** (with art. 4(4)(5))

Marginal Citations

M3 1975 c. 26.

Changes to legislation:
Requirements of Writing (Scotland) Act 1995, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6(1)(aa) inserted by 2007 asp 3 s. 48(1)
- Sch. 2 para. 2A and cross-heading inserted by 2024 asp 2 s. 79(2)