



Requirements of Writing (Scotland) Act 1995

1995 CHAPTER 7

[^{F1}PART 2

TRADITIONAL DOCUMENTS]

- 4 Presumption as to granter's subscription or date or place of subscription when established in court proceedings.**
- (1) Where a [^{F1}traditional document] bears to have been subscribed by a granter of it, but there is no presumption under section 3 of this Act that the document has been subscribed by that granter, then, if the court, on an application being made to it by any person who has an interest in the document, is satisfied that the document was subscribed by that granter, it shall—
 - (a) cause the document to be endorsed with a certificate to that effect; or
 - (b) where the document has already been registered in the Books of Council and Session or in sheriff court books, grant decree to that effect.
 - (2) Where a [^{F2}traditional document] bears to have been subscribed by a granter of it, but there is no presumption under section 3 of this Act as to the date or place of subscription, then, if the court, on an application being made to it by any person who has an interest in the document, is satisfied as to the date or place of subscription, it shall—
 - (a) cause the document to be endorsed with a certificate to that effect; or
 - (b) where the document has already been registered in the Books of Council and Session or in sheriff court books, grant decree to that effect.
 - (3) On an application under subsection (1) or (2) above evidence shall, unless the court otherwise directs, be given by affidavit.
 - (4) An application under subsection (1) or (2) above may be made either as a summary application or as incidental to and in the course of other proceedings.

Changes to legislation: Requirements of Writing (Scotland) Act 1995, Section 4 is up to date with all changes known to be in force on or before 01 February 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](#)

- (5) The effect of a certificate or decree—
- (a) under subsection (1) above shall be to establish a presumption that the document has been subscribed by the granter concerned;
 - (b) under subsection (2) above shall be to establish a presumption that the statement in the certificate or decree as to date or place is correct.
- (6) In this section “the court” means—
- (a) in the case of a summary application—
 - (i) the sheriff in whose sheriffdom the applicant resides; or
 - (ii) if the applicant does not reside in Scotland, the sheriff at Edinburgh; and
 - (b) in the case of an application made in the course of other proceedings, the court before which those proceedings are pending.

Textual Amendments

- F1** Words in s. 4(1) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 3 para. 8\(a\)](#) (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** Words in s. 4(2) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 3 para. 8\(b\)](#) (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)

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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\(1\)](#)