



Requirements of Writing (Scotland) Act 1995

1995 CHAPTER 7

[^{F1}PART 2

TRADITIONAL DOCUMENTS]

5 Alterations to [^{F1}traditional documents]: formal validity and presumptions.

- (1) An alteration made to a [^{F2}traditional document] required by section 1(2) of this Act—
- before the document is subscribed by the granter or, if there is more than one granter, by the granter first subscribing it, shall form part of the document as so subscribed;
 - after the document is so subscribed shall, if the alteration has been signed by the granter or (as the case may be) by all the granters, have effect as a formally valid alteration of the document as so subscribed,
- but an alteration made to such a document otherwise than as mentioned in paragraphs (a) and (b) above shall not be formally valid.
- (2) Subsection (1) above is without prejudice to—
- any rule of law enabling any provision in a testamentary document to be revoked by deletion or erasure without authentication of the deletion or erasure by the testator;
 - the ^{M1}Erasures in Deeds (Scotland) Act 1836 and section 54 of the ^{M2}Conveyancing (Scotland) Act 1874.
- (3) The fact that an alteration to a [^{F3}traditional document] was made before the document was subscribed by the granter of it, or by the granter first subscribing it, may be established by all relevant evidence, whether written or oral.
- (4) Where a [^{F4}traditional document] bears to have been subscribed by the granter or, if there is more than one granter, by all the granters of it, then, if subsection (5) or (6) below applies, an alteration made to the document shall be presumed to have been made before the document was subscribed by the granter or, if there is more than one

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granter, by the granter first subscribing it, and to form part of the document as so subscribed.

- (5) This subsection applies where—
- (a) the document is presumed under section 3 of this Act to have been subscribed by the granter or granters (as the case may be);
 - (b) it is stated in the document, or in the testing clause or its equivalent, that the alteration was made before the document was subscribed; and
 - (c) nothing in the document, or in the testing clause or its equivalent, indicates that the alteration was made after the document was subscribed.
- (6) This subsection applies where subsection (5) above does not apply, but the court is satisfied, on an application being made to it, that the alteration was made before the document was subscribed by the granter or, if there is more than one granter, by the granter first subscribing it, and causes the document to be endorsed with a certificate to that effect or, where the document has already been registered in the Books of Council and Session or in sheriff court books, grants decree to that effect.
- (7) Subsections (3), (4) and (6) of section 4 of this Act shall apply in relation to an application under subsection (6) above as they apply in relation to an application under subsection (1) of that section.
- (8) Where an alteration is made to a [^{F5}traditional document] after the document has been subscribed by a granter, Schedule 1 to this Act (presumptions as to granter’s signature and date and place of signing in relation to such alterations) shall have effect.

^{F6}(9)

Textual Amendments

- F1** Words in s. 5 substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 3 para. 10](#) (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. 5(1) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 3 para. 9\(a\)](#) (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)
- F3** Words in s. 5(3) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 3 para. 9\(b\)](#) (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)
- F4** Words in s. 5(4) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 3 para. 9\(c\)](#) (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)
- F5** Words in s. 5(8) substituted (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 3 para. 9\(d\)](#) (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)
- F6** S. 5(9) repealed (11.5.2014 for specified purposes) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 3 para. 9\(e\)](#) (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)

Marginal Citations

- M1** 1836 c. 33.
M2 1874 c. 94.

Changes to legislation:

Requirements of Writing (Scotland) Act 1995, Section 5 is up to date with all changes known to be in force on or before 27 March 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.

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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\(1\)](#)
- Sch. 2 para. 2A and cross-heading inserted by [2024 asp 2 s. 79\(2\)](#)