



# Coronavirus (Recovery and Reform) (Scotland) Act 2022

2022 asp 8

## PART 3

### PUBLIC SERVICE REFORM

#### *Bankruptcy*

#### **19 Bankruptcy: service of documents**

- (1) The Bankruptcy (Scotland) Act 2016 is modified by subsections (2) and (3).
- (2) After section 224 insert—

#### **“224A Service of documents**

- (1) Where a provision of this Act or of any regulations made under it authorises or requires a document to be served on a person (whether the expression “serve”, “give”, “send” or any other expression is used), the document may be served on the person—
  - (a) by being delivered personally to the person,
  - (b) by being sent to the proper address of the person—
    - (i) by a registered post service (as defined in section 125(1) of the Postal Services Act 2000), or
    - (ii) by a postal service which provides for the delivery of the document to be recorded, or
  - (c) by being transmitted to the person electronically.
- (2) For the purpose of subsection (1)(b), the proper address of a person is—
  - (a) in the case of a body corporate, the address of the registered or principal office of the body,
  - (b) in the case of a partnership, the address of the principal office of the partnership,
  - (c) in any other case, the last known address of the person.

- (3) Where a document is served as mentioned in subsection (1)(b) on an address in the United Kingdom it is to be taken to have been received 48 hours after it is sent unless the contrary is shown.
- (4) For the purpose of subsection (1)(c)—
- (a) electronic transmission of a document must be effected in a way that the recipient has indicated to the sender that the recipient is willing to receive the document,
  - (b) the recipient’s indication of willingness to receive a document in a particular way may be—
    - (i) specific to the document in question or generally applicable to documents of that kind,
    - (ii) expressed specifically to the sender or generally (for example on a website),
    - (iii) inferred from the recipient having previously been willing to receive documents from the sender in that way and not having indicated unwillingness to do so again,
  - (c) the sender’s uploading of a document to an electronic storage system from which the recipient is able to download the document may constitute electronic transmission of the document, where the recipient is sent a notification that the document has been uploaded in that way,
  - (d) a notice transmitted electronically is taken to have been received on the day of transmission unless the contrary is shown.
- (5) This section does not apply where some other form of delivery is required by rules of court or by order of the court.”.
- (3) Section 187 is repealed.
- (4) The modifications made by subsection (2) have no effect in relation to any document served before 1 October 2022.

## **20 Bankruptcy: meaning of “qualified creditor” and “qualified creditors”**

- (1) The Bankruptcy (Scotland) Act 2016 is modified by subsection (2).
- (2) In section 7(1) (qualified creditor and qualified creditors)—
- (a) in the definition of “qualified creditor”, for “£3,000” substitute “£5,000”,
  - (b) in the definition of “qualified creditors”, for “£3,000” substitute “£5,000”.
- (3) The modifications made by subsection (2) have no effect in relation to any sequestration in respect of which the petition was presented before 1 October 2022.

## **21 Bankruptcy: remote meetings of creditors**

- (1) The Bankruptcy (Scotland) Act 2016 is modified as follows.
- (2) In schedule 6 (meetings of creditors and commissioners)—
- (a) for paragraph 13 and the italic heading immediately preceding it substitute—

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*“Holding of meeting*

- 13 Every meeting must be held either—
- (a) in such place (whether or not in the sheriffdom) as is, in the opinion of the person calling the meeting, the most convenient for the majority of the creditors, or
  - (b) by such electronic means as would, in the opinion of the person calling the meeting, be most convenient to allow the majority of the creditors to participate in the meeting without being together in the same place.
- 13A Where a meeting is to be held in pursuance of paragraph 13(b), the references in paragraphs 4 and 6 to the place fixed for the holding of the meeting are to be read as references to the electronic means by which attendees are to be able to attend the meeting without being together in the same place.”
- (b) in paragraph 24—
    - (i) for “and place” substitute “, and at the same place or by the same electronic means,”,
    - (ii) for “in” to “specified” substitute “the resolution specifies otherwise”.

*Diligence*

**22 Bank arrestments: protected minimum balance**

- (1) The Debtors (Scotland) Act 1987 is modified by subsection (2).
- (2) In section 73F (protection of minimum balance in certain bank accounts)—
  - (a) in subsection (3), for “mentioned in subsection (4) below” substitute “of £1,000”,
  - (b) subsection (4) is repealed,
  - (c) in subsection (6)—
    - (i) the “and” at the end of paragraph (a)(ii) is repealed,
    - (ii) after paragraph (a), insert—
      - “(aa) vary the protected minimum sum mentioned in subsection (3)(a), and”.
- (3) The modifications made by subsection (2) have no effect in relation to an arrestment executed before 1 November 2022.

**23 Period of moratorium on diligence**

- (1) Section 198 of the Bankruptcy (Scotland) Act 2016 (period of moratorium) is modified as follows.
- (2) In each of the following, for “6 weeks” substitute “6 months”—
  - (a) subsection (1)(b)(i),
  - (b) subsection (3),
  - (c) subsection (5),
  - (d) subsection (7).

- (3) In subsection (6)(b), for “13 weeks after the day on which the moratorium began under subsection (1)(a)” substitute “7 weeks after the day on which the moratorium would have ended but for this subsection”.

## **24 Power to amend period of moratorium on diligence**

- (1) The Bankruptcy (Scotland) Act 2016 is modified as follows.
- (2) In section 198 (period of moratorium), after subsection (8), insert—
- “(9) The Scottish Ministers may by regulations modify this section so as to vary any of the periods specified in subsections (1)(b)(i), (3), (5), (6)(b) or (7).”.
- (3) In section 225 (regulations: general), in subsection (4)(a), after “194(1)” insert “, 198(9)”.

### *Registration of births*

## **25 Giving information of particulars of birth remotely**

- (1) The Registration of Births, Deaths and Marriages (Scotland) Act 1965 is modified as follows.
- (2) In section 14 (duty to give information of particulars of birth)—
- (a) in subsection (1)(b), for “the next following subsection” substitute “subsection (2)”,
- (b) in subsection (1A)—
- (i) in the opening words, the word “by” is repealed,
- (ii) in paragraph (a), before “attending” insert “by”,
- (iii) after paragraph (a), the word “or” is repealed,
- (iv) for paragraph (b) substitute—
- “(b) in a manner permitted in the circumstances (or any circumstances) by a direction issued by the registrar, or
- (c) in a manner permitted in the circumstances (or any circumstances) by a direction issued by the Registrar General.”,
- (c) after subsection (1A) insert—
- “(1B) A person has not discharged the duty under subsection (1) in relation to a birth until the birth registration form containing the information given by the person of the prescribed particulars concerning the birth is attested by, or on behalf of, the person.
- (1C) References in this section to a birth registration form being attested—
- (a) by a person are to the person attesting the form—
- (i) in the prescribed manner in the presence of the district registrar, or
- (ii) in a manner approved by the Registrar General,
- (b) on behalf of a person are to the form being attested by the district registrar in a manner approved by the Registrar

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General (once the person has provided the registrar with any information the registrar requests).

(1D) Where there is a way for—

- (a) a person (“the informant”) to give information of the prescribed particulars of a birth that does not entail the informant attending personally at a registration office, or
- (b) a birth registration form to be attested that does not entail the informant attesting it in the presence of a district registrar,

it is for the informant to choose whether to give the information, or attest the form, that way.”.

(3) After section 14 insert—

**“14A Directions about giving information of particulars of birth**

- (1) A direction under section 14(1A)(b) may only permit information to be given in a manner approved by the Registrar General.
- (2) A direction under section 14(1A)(c) may not make different provision for different areas.
- (3) A power to issue a direction under section 14(1A) includes the power to revise or revoke an earlier direction issued under the power.
- (4) Directions under section 14(1A) must be made publicly available.
- (5) There is no duty to issue any direction under section 14(1A)(b) or (c).”.

(4) In section 16 (registrar’s power to require information concerning birth to be given)—

(a) in subsection (1)—

(i) after “requiring him” insert “before such date (being not less than 8 days and not more than 15 days after the date of service of the notice) as may be specified in the notice”,

(ii) paragraph (a) is repealed,

(iii) in paragraph (b), after “birth” insert “in one of the following ways—

“(i) by attending personally at the registration office for that district and giving the information to the registrar there; or

(ii) in a manner permitted in the circumstances (or any circumstances) by a direction under section 14(1A)(b) or (c)”,

(iv) for paragraph (c) substitute—

“(c) to either—

(i) attest, in the prescribed manner, the birth registration form concerning the birth in the presence of the registrar; or

(ii) provide the registrar with any information the registrar requests in order for the registrar to attest the form, in a manner approved by the Registrar General, on the person’s behalf.”,

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- (b) in subsection (2), for “him to attend personally as aforesaid” substitute “the person to do the things mentioned in subsection (1)(b) and (c)”,
  - (c) after subsection (3) insert—
    - “(3A) Where there is a way for—
      - (a) a person on whom a notice under subsection (1) or (2) is served (“the informant”) to give information of the prescribed particulars of a birth that does not entail the informant attending personally at a registration office, or
      - (b) a birth registration form to be attested that does not entail the informant attesting it in the presence of a district registrar,
 it is for the informant to choose whether to give the information, or attest the form, that way.”.
- (5) In section 16B(2) (registration of births)—
- (a) for “he obtained the attested birth registration by virtue of” substitute “information was given in a manner permitted by a direction under”,
  - (b) after “14(1A)(b)” insert “or (c)”.
- (6) In section 18 (which makes provision about registration by a father not married to, or in a civil partnership with, the child’s mother)—
- (a) in subsection (1)(a), for “that person” to “together with” substitute “the birth registration form is to be attested by, or on behalf of, both that person and”,
  - (b) in subsection (1A), for “by him” to “the registrar” substitute “by, or on behalf of, that person”,
  - (c) after subsection (3) insert—
    - “(4) References in this section to a birth registration form being attested—
      - (a) by a person are to the person attesting the form—
        - (i) in the prescribed manner in the presence of the district registrar, or
        - (ii) in a manner approved by the Registrar General,
      - (b) on behalf of a person are to the form being attested by the district registrar in a manner approved by the Registrar General (once the person has provided the registrar with any information the registrar requests).
    - (5) Where—
      - (a) a person is required by this section to attest a birth registration form, and
      - (b) there is a way for the person to do so that does not entail attesting it in the presence of a district registrar,
 it is for the person to choose whether to attest the form that way.”.
- (7) In section 18B (births of children where second female parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008)—
- (a) in subsection (1)(a), for “woman concerned shall” to “together with” substitute “birth registration form is to be attested by, or on behalf of, both the woman concerned and”,
  - (b) in subsection (2), for “in the presence of the registrar” substitute “, or on her behalf”,

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- (c) after subsection (3) insert—
- “(4) References in this section to a birth registration form being attested—
- (a) by a person are to the person attesting the form—
    - (i) in the prescribed manner in the presence of the district registrar, or
    - (ii) in a manner approved by the Registrar General,
  - (b) on behalf of a person are to the form being attested by the district registrar in a manner approved by the Registrar General (once the person has provided the registrar with any information the registrar requests).
- (5) Where—
- (a) a person is required by this section to attest a birth registration form, and
  - (b) there is a way for the person to do so that does not entail attesting it in the presence of a district registrar,
- it is for the person to choose whether to attest the form that way.”

- (8) After section 21 insert—

**“21A Meaning of birth registration form**

In this Part, references to a birth registration form are to the prescribed form in which—

- (a) a person gives a district registrar information of the prescribed particulars concerning a birth, or
- (b) a district registrar records information of the prescribed particulars concerning a birth.”

*Registration of deaths*

**26 Funeral director giving information of particulars of death**

- (1) The Registration of Births, Deaths and Marriages (Scotland) Act 1965 is modified as follows.
- (2) In section 23 (duty to give information of particulars of death)—
- (a) after subsection (1) insert—

“(1ZA) The duty to give information concerning a death imposed by subsection (1) is discharged in relation to every person upon whom the duty is imposed if the funeral director responsible for arranging the deceased’s funeral gives the information to the district registrar for a registration district on behalf of any of those persons.

(1ZB) In [subsection \(1ZA\)](#), “funeral director” has the meaning given by section 31(1) of the Certification of Death (Scotland) Act 2011.”
  - (b) in subsection (1A), after “subsection (1)” insert “or [\(1ZA\)](#)”.

**27 Giving information of particulars of death remotely**

(1) The Registration of Births, Deaths and Marriages (Scotland) Act 1965 is modified as follows.

(2) In section 23 (duty to give information of particulars of death)—

(a) in subsection (1A)—

- (i) in the opening words, the word “by” is repealed,
- (ii) in paragraph (a), before “attending” insert “by”,
- (iii) after paragraph (a), the word “or” is repealed,
- (iv) for paragraph (b) substitute—

“(b) in a manner permitted in the circumstances (or any circumstances) by a direction issued by the registrar, or

(c) in a manner permitted in the circumstances (or any circumstances) by a direction issued by the Registrar General.”,

(b) after subsection (1A) insert—

“(1B) A person has not discharged the duty under subsection (1) by giving information to a district registrar until the death registration form containing the information is attested by, or on behalf of, the person.

(1C) References in this section to a death registration form being attested—

(a) by a person are to the person attesting the form—

- (i) in the prescribed manner in the presence of the district registrar, or
- (ii) in a manner approved by the Registrar General,

(b) on behalf of a person are to the form being attested by the district registrar in a manner approved by the Registrar General (once the person has provided the registrar with any information the registrar requests).

(1D) Where there is a way for—

- (a) a person (“the informant”) to give information of the prescribed particulars concerning a death that does not entail the informant attending personally at a registration office, or
- (b) a death registration form to be attested that does not entail the informant attesting it in the presence of a district registrar,

it is for the informant to choose whether to give the information, or attest the form, that way.”.

(3) After section 23 insert—

**“23A Directions about giving information of particulars of death**

(1) A direction under section 23(1A)(b) may only permit information to be given in a manner approved by the Registrar General.

(2) A direction under section 23(1A)(c) may not make different provision for different areas.



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- (3) A power to issue a direction under section 23(1A) includes the power to revise or revoke an earlier direction issued under the power.
  - (4) Directions under section 23(1A) must be made publicly available.
  - (5) There is no duty to issue any direction under section 23(1A)(b) or (c).”.
- (4) In section 25 (registrar’s power to require information concerning death to be given)—
- (a) in subsection (1)—
    - (i) after “requiring him” insert “before such date (being not less than 8 days nor more than 15 days after the date of service of the notice) as may be specified in the notice”,
    - (ii) paragraph (a) is repealed,
    - (iii) in paragraph (b), after “death” insert “in one of the following ways—
      - “(i) by attending personally at the registration office for that district and giving the information to the registrar there; or
      - (ii) in a manner permitted in the circumstances (or any circumstances) by a direction under section 23(1A)(b) or (c)”,
    - (iv) for paragraph (c) substitute—
      - “(c) to either—
        - (i) attest, in the prescribed manner, the death registration form concerning the death in the presence of the registrar; or
        - (ii) provide the registrar with any information the registrar requests in order for the registrar to attest the form, in a manner approved by the Registrar General, on the person’s behalf.”,
  - (b) in subsection (2), for “him to attend personally as aforesaid” substitute “the person to do the things mentioned in subsection (1)(b) and (c)”,
  - (c) after subsection (3) insert—
    - “(3A) Where there is a way for—
      - (a) a person on whom a notice under subsection (1) or (2) is served (“the informant”) to give information of the particulars required to be registered concerning a death that does not entail the informant attending personally at a registration office, or
      - (b) a death registration form to be attested that does not entail the informant attesting it in the presence of a district registrar,it is for the informant to choose whether to give the information, or attest the form, that way.”.
- (5) In section 25B(2) (registration of deaths)—
- (a) for “he obtained the attested death registration form by virtue of” substitute “information was given in a manner permitted by a direction under”,
  - (b) after “23(1A)(b)” insert “or (c)”.
- (6) After section 28 insert—

**“28ZA Meaning of death registration form**

In this Part, references to a death registration form are to the prescribed form in which—

- (a) a person gives a district registrar information of the prescribed particulars concerning a death, or
- (b) a district registrar records information of the prescribed particulars concerning a death.”.

*Further modification of the Registration of Births, Deaths and Marriages (Scotland) Act 1965*

**28 Regulations under the 1965 Act**

- (1) The Registration of Births, Deaths and Marriages (Scotland) Act 1965 is modified as follows.
- (2) In section 54(1A) (regulations), for “prescribing the form of a register of marriages under section 32” substitute “under subsection (1)”.

*Civil Partnership Register***29 Power to make a register electronic**

- (1) The Civil Partnership Act 2004 is modified as follows.
- (2) In section 95 (further provision as to registration), after subsection (3) insert—
  - “(3ZA) A civil partnership register may, if the Registrar General so determines, be electronic rather than paper-based.”.

*Civic licensing***30 Civic licensing: how hearings may be held**

- (1) The Civic Government (Scotland) Act 1982 is modified as follows.
- (2) In schedule 1 (licensing: further provisions as to the general system), after paragraph 18A insert—

*“How hearings may be held*

- 18B (1) A licensing authority may determine that a hearing is to be held—
  - (a) in person,
  - (b) wholly through the use of remote facilities, or
  - (c) partly in person and partly through the use of remote facilities.
- (2) When determining how a hearing is to be held, a licensing authority must take account of any views given on that issue by any person who notifies the authority of an intention to participate in the hearing.

- (3) In [sub-paragraph \(1\)](#), “remote facilities” means any equipment or facility which—
- (a) enables persons who are not in the same place to participate in the hearing, and
  - (b) enables those persons to speak to and be heard by each other (whether or not it enables those persons to see and be seen by each other).”.
- (3) In schedule 2 (control of sex shops and sexual entertainment venues), after paragraph 24A insert—

*“How hearings may be held*

- 24B (1) A local authority may determine that a hearing is to be held—
- (a) in person,
  - (b) wholly through the use of remote facilities, or
  - (c) partly in person and partly through the use of remote facilities.
- (2) When determining how a hearing is to be held, a local authority must take account of any views given on that issue by any person who notifies the authority of an intention to participate in the hearing.
- (3) In [sub-paragraph \(1\)](#), “remote facilities” means any equipment or facility which—
- (a) enables persons who are not in the same place to participate in the hearing, and
  - (b) enables those persons to speak to and be heard by each other (whether or not it enables those persons to see and be seen by each other).”.

### **31 Civic licensing: how notices may be published**

- (1) The Civic Government (Scotland) Act 1982 is modified as follows.
- (2) In paragraph 2(8) of schedule 1 (licensing: further provisions as to the general system), after “the authority” insert “, or by publication of a notice on the licensing authority’s website,”.
- (3) In paragraph 7(2) of schedule 2 (control of sex shops and sexual entertainment venues), after “area” insert “, or by publishing an advertisement on the local authority’s website,”.
- (4) In section 45B(6)(d) (licensing of sexual entertainment venues)—
- (a) sub-paragraph (i) is repealed,
  - (b) in sub-paragraph (ii), sub-paragraphs (3A) and (3B) of the inserted text are repealed.

*Alcohol licensing*

### **32 Alcohol licensing: how hearings may be held**

- (1) The Licensing (Scotland) Act 2005 is modified as follows.

(2) After section 133 insert—

**“133A How hearings may be held**

- (1) A Licensing Board may determine that a hearing is to be held—
  - (a) in person,
  - (b) wholly through the use of remote facilities, or
  - (c) partly in person and partly through the use of remote facilities.
- (2) When determining how a hearing is to be held, a Licensing Board must take account of any views given on that issue by any person who notifies the Board of an intention to participate in the hearing.
- (3) In subsection (1), “remote facilities” means any equipment or facility which—
  - (a) enables persons who are not in the same place to participate in the hearing, and
  - (b) enables those persons to speak to and be heard by each other (whether or not it enables those persons to see and be seen by each other).”.

(3) In paragraph 12 of schedule 1 (proceedings)—

(a) before sub-paragraph (1) insert—

“(A1) A Licensing Board may determine that a meeting is to be held—

- (a) in person,
- (b) wholly through the use of remote facilities, or
- (c) partly in person and partly through the use of remote facilities.

(A2) When determining how a meeting is to be held, a Licensing Board must take account of any views given on that issue by any person who notifies the Board of an intention to participate in the meeting.”,

(b) after sub-paragraph (2) insert—

“(2A) Where a meeting is held wholly or partly through the use of remote facilities, a Licensing Board complies with the requirement mentioned in sub-paragraph (2) by enabling the public to observe the meeting through the use of remote facilities (for example, by making a web link to the meeting publicly available).”,

(c) after sub-paragraph (6) insert—

“(7) In this paragraph, “remote facilities” means any equipment or facility which—

- (a) enables persons who are not in the same place to participate in the meeting, and
- (b) enables those persons to speak to and be heard by each other (whether or not it enables those person to see and be seen by each other).”.

### *Land registration*

## **33 Electronic submission of copies of deeds and writs to Registers of Scotland**

- (1) The Land Registration etc. (Scotland) Act 2012 is modified by subsection (2).
- (2) In section 21 (application for registration of deed), after subsection (4) insert—
  - “(5) For the purposes of this section, submission by electronic means of a copy of the deed is sufficient evidence of the original for the purposes of accepting an application for registration.
  - (6) But subsection (5) applies only where submission of the copy is by a means (and in a form) which is specified on the Keeper’s website as being acceptable.
  - (7) In subsection (5), the reference to submission by electronic means is to submission—
    - (a) by means of an electronic communications network (for example as an attachment to an email), or
    - (b) by other means but in a form which requires the use of electronic apparatus by the recipient to render the thing delivered intelligible.
  - (8) In this section—

“electronic communications network” has the meaning given by section 32 of the Communications Act 2003,  
“the Keeper’s website” means the website maintained by, or on behalf of, the Keeper of the Registers of Scotland.”.
- (3) The Land Registers (Scotland) Act 1868 is modified by subsection (4).
- (4) In section 6A (provision for writs transmitted electronically to general register of sasines)—
  - (a) in subsection (1), the words “which is an electronic document” are repealed,
  - (b) after subsection (5) insert—
    - “(6) For the purposes of this section, submission by electronic means of a copy of the writ is sufficient evidence of the original for the purposes of accepting an application.
    - (7) But subsection (6) applies only where submission of the copy is by a means (and in a form) which is specified on the Keeper’s website as being acceptable.
    - (8) In subsection (6), the reference to submission by electronic means is to submission—
      - (a) by means of an electronic communications network (for example as an attachment to an email), or
      - (b) by other means but in a form which requires the use of electronic apparatus by the recipient to render the thing delivered intelligible.
    - (9) In this section—

“electronic communications network” has the meaning given by section 32 of the Communications Act 2003,

“the Keeper’s website” means the website maintained by, or on behalf of, the Keeper of the Registers of Scotland.”.

### **34 Register of Inhibitions: electronic signature of documents**

- (1) The Bankruptcy and Diligence etc. (Scotland) Act 2007 is modified as follows.
- (2) After section 148 insert—

#### **“148A Register of Inhibitions: electronic signature of documents**

- (1) This section applies in relation to a document which is required or permitted to be registered or recorded in the Register of Inhibitions.
- (2) An electronic signature fulfils any requirement (however expressed) that the document be signed in order to be registered or recorded in the Register.
- (3) Any requirement (however expressed) that the document be given to the Keeper in order to be registered or recorded in the Register may be fulfilled by transmitting it to the Keeper electronically.
- (4) For the purposes of subsection (3), the document must be transmitted by a means (and in a form) which is specified on the Keeper’s website as being acceptable for those purposes.
- (5) In this section—
  - “document” includes a copy of a document,
  - “electronic signature” is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000, but includes a version of an electronic signature which is reproduced on a paper document,
  - “the Keeper” means the Keeper of the Registers of Scotland,
  - “the Keeper’s website” means the website maintained by, or on behalf of, the Keeper of the Registers of Scotland.”.

#### *Legal aid and advice*

### **35 Claim for interim payment of fees and outlays**

- (1) The Legal Aid (Scotland) Act 1986 is modified by subsections (2) to (4).
- (2) In section 4 (Scottish Legal Aid Fund)—
  - (a) in subsection (2)—
    - (i) in paragraph (a), for “section 4A(13)” substitute “sections 4A(13) and 33(6)”,
    - (ii) after paragraph (ac) insert—
      - “(ad) such sums as are, by virtue of [section 33ZB](#) of this Act, due out of the Fund to a solicitor or counsel in connection with the provision of legal aid or advice and assistance;”.
  - (b) in subsection (3), after paragraph (ad) insert—
    - “(ae) any sums payable to the Board by a solicitor or counsel by virtue of [section 33ZC](#) of this Act;”.

- (3) In section 33 (fees and outlays of solicitors and counsel)—
- (a) after subsection (3B) insert—

“(3BA) But subsection (3B) does not preclude a solicitor from being paid out of the Fund under section 4(2)(ad) following a claim for interim payment made under section 33ZB in respect of the professional services and outlays mentioned in subsection (3A).”
  - (b) in subsection (3C), the word “however,” is repealed,
  - (c) after subsection (5) insert—

“(6) Where a sum is paid out of the Fund under section 4(2)(ad) in connection with the provision of legal aid or advice and assistance, that sum must be deducted from the sum payable to the solicitor or counsel under section 4(2)(a) in connection with the provision of the legal aid or advice and assistance.”
- (4) After section 33ZA insert—

*“Interim payments to solicitors and counsel*

**33ZB Claim for interim payment**

- (1) A claim for interim payment may be submitted to the Board by—
  - (a) a solicitor who is acting for a person by providing legal aid or advice and assistance under this Act,
  - (b) counsel who is acting for a person by providing legal aid under this Act.
- (2) A claim for interim payment must—
  - (a) be submitted in the manner specified by the Board,
  - (b) include a declaration from the solicitor or (as the case may be) counsel that the sum claimed does not exceed the sum that the solicitor or counsel would expect to be paid under section 4(2)(a) in connection with the provision of the legal aid or advice and assistance.
- (3) If a claim for interim payment is submitted to the Board, the sum claimed must be paid out of the Fund in accordance with section 4(2)(ad) to the solicitor or counsel who submitted the claim.
- (4) But the Board may reject the claim if it appears to it that the sum claimed is likely to exceed the sum it would expect to be payable to the solicitor or counsel under section 4(2)(a) in connection with the provision of the legal aid or advice and assistance.
- (5) In forming an expectation about the sum payable under section 4(2)(a), for the purposes of subsections (2) and (4), no account is to be taken of the deduction that would be made under section 33(6) if the claim for interim payment were met.

**33ZC Recovery where interim payment excessive**

- (1) This section applies where—

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- (a) a sum has been paid out of the Fund under section 4(2)(ad) to a solicitor or counsel while providing legal aid or advice and assistance, and
  - (b) the solicitor or counsel is no longer providing the legal aid or advice and assistance.
- (2) Where the sum paid out of the Fund exceeds the sum that would, but for section 33(6), be payable under section 4(2)(a) in connection with the provision of the legal aid or advice and assistance, the solicitor or (as the case may be) counsel is liable to the Board for the difference between the sums.
- (3) A firm is jointly and severally liable for a sum owed by a solicitor to the Board by virtue of [subsection \(2\)](#) if the interim payment referred to in that subsection was made to the firm on the solicitor’s instruction.
- (4) Where—
- (a) a firm is jointly and severally liable to the Board for a sum by virtue of [subsection \(3\)](#), and
  - (b) a separate sum is due to be paid out of the Fund to the firm, on the instruction of a solicitor,
- the Board may deduct all or part of the sum mentioned in [paragraph \(a\)](#) from the sum mentioned in [paragraph \(b\)](#).
- (5) This section is without prejudice to any other enactment or rule of law under which the difference between the sums mentioned in [subsection \(2\)](#) may be recovered.”
- (5) Regulation 11 of the Civil Legal Aid (Scotland) (Fees) Regulations 1989 ([S.I. 1989/1490](#)) is revoked.

### *Freedom of information*

#### **36 Freedom of information: giving notice electronically**

- (1) The Freedom of Information (Scotland) Act 2002 is modified as follows.
- (2) In section 74(1)(a) (giving of notice etc.)—
- (a) after sub-paragraph (i), the word “or” is repealed,
  - (b) after sub-paragraph (ii) insert “, or  
“(iii) transmitted by electronic means,”.

### *Mental health*

#### **37 Mental health: removal of need for witnessing of signature of nominated person**

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is modified as follows.
- (2) In section 250(2A) (nomination of named person)—
- (a) after paragraph (b), the word “and” is repealed,
  - (b) paragraph (c) is repealed.



### *Care services*

#### **38 Care services: giving of notices by SCSWIS**

- (1) The Public Services Reform (Scotland) Act 2010 is modified as follows.
- (2) For section 101 (giving of notice) substitute—

##### **“101 Giving of notice**

- (1) In Chapters 3 and 4, any reference to a notice being given to a person providing, or seeking to provide, a care service is to be construed as a reference to its being—
  - (a) delivered, where the person is—
    - (i) an individual, to that individual,
    - (ii) a body corporate, to a director, secretary or other similar officer of that body or to a manager (or other similar officer) of the care service provided by that body,
    - (iii) a firm, to a partner of that firm,
  - (b) sent by post, properly addressed to the person—
    - (i) by a registered post service (as defined in section 125(1) of the Postal Services Act 2000), or
    - (ii) by a postal service which provides for the delivery of the document to be recorded, or
  - (c) transmitted to the person electronically.
- (2) In subsection (1)(a)(ii), “manager”, in relation to a care service provided by a body corporate, means the manager whose name is entered in the register maintained under regulation 5 of the Social Care and Social Work Improvement Scotland (Registration) Regulations 2011 ([S.S.I. 2011/28](#)) in relation to the care service.
- (3) For the purpose of subsection (1)(b)—
  - (a) a letter is properly addressed to—
    - (i) a body corporate, if addressed to the body at its registered or principal office,
    - (ii) a firm, if addressed to the firm at its principal office,
    - (iii) any other person, if addressed to the person at the address last known,
  - (b) a notice sent by post is to be taken to have been received on the third day after the day of posting unless the contrary is shown.
- (4) For the purpose of subsection (1)(c)—
  - (a) electronic transmission of a notice must be effected in a way that the person has indicated to SCSWIS that the person is willing to receive the notice,
  - (b) the person’s willingness to receive a notice in a particular way may be—
    - (i) specific to the notice in question or generally applicable to notices or other documents of that kind,

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- (ii) expressed specifically to SCSWIS or generally (for example on a website),
- (iii) inferred from the person having previously been willing to receive notices or other documents from SCSWIS in that way and not having indicated an unwillingness to do so again,
- (c) SCSWIS' uploading of a notice to an electronic storage system from which the person is able to download the notice may constitute electronic transmission of the notice from SCSWIS to the person, where the person is sent a notification that the notice has been uploaded in that way,
- (d) a notice transmitted electronically is to be taken to have been received on the day of transmission unless the contrary is shown.”.

#### *Requirements of writing*

### **39 Disapplication of physical presence requirements**

- (1) The Requirements of Writing (Scotland) Act 1995 is modified as follows.
- (2) In section 9(6) (subscription on behalf of blind granter or granter unable to write), after “this Act” insert “(other than section 10A)”.
- (3) After section 10 insert—

#### **“10A Disapplication of physical presence requirements**

- (1) The following requirements (however expressed) do not apply—
  - (a) a requirement for a relevant person to be physically in the same place as another person when that person—
    - (i) signs or subscribes a document or an alteration of a document,
    - (ii) takes an oath, or
    - (iii) makes an affirmation or declaration,
  - (b) a requirement for another person to be physically in the same place as a relevant person when the relevant person signs or subscribes a document or an alteration of a document.
- (2) In this section—
  - “relevant person” means—
    - (a) a solicitor,
    - (b) an advocate,
    - (c) a notary public,
  - “requirement” means a requirement arising from an enactment or rule of law.
- (3) For the avoidance of doubt—
  - (a) the requirements described by [subsection \(1\)\(a\)](#) include a requirement that may be fulfilled by the physical presence of a professional of a type not mentioned in the definition of “relevant person” as well as by a professional of a type that is (for example, it includes a requirement for the physical presence of a solicitor or a registered medical practitioner), but

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- (b) [subsection \(1\)](#) only causes such a requirement not to apply in relation to a professional of a type that is mentioned in the definition of “relevant person.”.

#### *Custody at police stations*

### **40 Custody officers’ functions**

- (1) The Criminal Justice and Public Order Act 1994 is modified by [subsection \(2\)](#).
- (2) In—
  - (a) section 102(2) (arrangements for the provision of prisoner escorts), after paragraph (b) insert—
    - “(ba) the custody of prisoners held in a police station and their production, by electronic means from the station, before a court;”,
  - (b) section 104(4) (powers and duties of prisoner custody officers performing escort functions), for “on any premises” to “he” substitute “—
    - “(a) on any premises in which a court of summary jurisdiction is sitting; or
    - (b) in a police station and has the custody of a prisoner who is, from the station, before a court of summary jurisdiction by electronic means,the officer”.
- (3) The Police and Fire Reform (Scotland) Act 2012 is modified by [subsection \(4\)](#).
- (4) In schedule 2 (police custody and security officers: powers and duties), after paragraph 1(b) insert—
  - “(ba) to have custody of persons held in legal custody in a police station for the purpose of effecting their production, by electronic means from the station, before a court;”.
- (5) The Criminal Justice (Scotland) Act 2016 is modified by [subsection \(6\)](#).
- (6) In section 64 (meaning of police custody), after subsection (2) insert—
  - “(3) A person who is at a police station in the custody of a prisoner custody officer is not to be regarded as having been transferred into the custody of that officer for the purposes of subsection (2)(cb).
  - (4) In [subsection \(3\)](#), “prisoner custody officer” has the meaning given in section 114(1) of the Criminal Justice and Public Order Act 1994.”.
- (7) The Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 is modified by [subsection \(8\)](#).
- (8) In section 2(5)(b) (mandatory inquiries), after “2016” insert “, or otherwise in custody at a police station”.

*Parole Board for Scotland***41 Chairperson's functions**

- (1) The Prisoners and Criminal Proceedings (Scotland) Act 1993 is modified as follows.
- (2) In schedule 2 (the Parole Board), after paragraph 2J insert—

*“Exercise of chairperson's functions by other members*

- 2K
- (1) A function conferred on the chairperson of the Parole Board may be exercised by another member of the Parole Board in accordance with the scheme prepared under [sub-paragraph \(3\)](#).
  - (2) Another member's being authorised by the scheme to exercise one of the chairperson's functions does not preclude the chairperson from exercising that function.
  - (3) The chairperson must prepare a scheme that authorises another member, or members, to exercise the functions conferred on the chairperson.
  - (4) The scheme—
    - (a) must be framed so that a member is, or a combination of members are, authorised to discharge all of the chairperson's functions in the following circumstances—
      - (i) there is no chairperson,
      - (ii) the chairperson is unable to exercise the functions for any reason (for example due to ill health), and
    - (b) may be framed so that, outwith those circumstances, other members are authorised to discharge any, or all, of the chairperson's functions either at any time or in circumstances specified by the scheme.
  - (5) The chairperson may modify the scheme at any time.
  - (6) The Parole Board must make the scheme publicly available.
  - (7) Only the chairperson may prepare and modify the scheme; accordingly, the references to the chairperson's functions elsewhere in this paragraph do not include the functions of preparing and modifying the scheme.”

*Children's hearings***42 Members of children's hearings**

- (1) The Children's Hearings (Scotland) Act 2011 is modified as follows.
- (2) In section 6(3) (selection of members of children's hearing), at the beginning of paragraph (a), insert “so far as practicable,”.