

## SCHEDULE TEMPORARY JUSTICE MEASURES

### PART 1

#### COURTS AND TRIBUNALS: CONDUCT OF BUSINESS BY ELECTRONIC MEANS ETC.

### CHAPTER 2

#### ATTENDING A COURT OR TRIBUNAL

##### *Attending by electronic means*

- 8 (1) A person excused from a requirement to physically attend a court or tribunal by virtue of [paragraph 6\(2\)](#) or [\(4\)](#) or 7(2)(a) must instead appear before the court, tribunal or office holder (as the case may be) by electronic means in accordance with a direction issued by the court or tribunal.
- (2) A person who fails to do so is to be regarded as having failed to comply with the requirement to physically attend from which the person is excused.
- (3) The power under [sub-paragraph \(1\)](#) to issue a direction includes the power to vary or revoke an earlier direction issued under that sub-paragraph.
- (4) A direction under [sub-paragraph \(1\)](#)—
- (a) is to set out how the person is to appear by electronic means before the court, tribunal or office holder, and
  - (b) may include any other provision which the court or tribunal considers appropriate.
- (5) A court or tribunal may issue a direction under [sub-paragraph \(1\)](#) on the motion of a party or of its own accord.
- (6) Before issuing a direction under [sub-paragraph \(1\)](#), the court or tribunal must—
- (a) give all parties an opportunity to make representations (subject to [sub-paragraph \(7\)](#)), and
  - (b) have regard to any guidance issued by—
    - (i) the Lord President of the Court of Session, or
    - (ii) the Lord Justice General.
- (7) The first direction in relation to a hearing under [sub-paragraph \(1\)](#) may be issued by the court or (as the case may be) tribunal of its own accord without having given the parties an opportunity to make representations.
- (8) Where a direction in relation to a hearing is issued as described in [sub-paragraph \(7\)](#), the court or (as the case may be) tribunal must—
- (a) take steps to ensure that the parties are aware of their right to make a motion for the variation or revocation of the direction, and
  - (b) deal with any motion for the variation or revocation of the direction, before taking a decision about any other matter at the hearing, other than a decision to adjourn, a decision in respect of a motion for a direction under [paragraph 6](#) or [7](#)

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*Status: This is the original version (as it was originally enacted).*

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or a matter that an enactment requires that the court deal with before another hearing could practicably be arranged.

- (9) A direction under [sub-paragraph \(1\)](#) setting out—
- (a) how a party to proceedings is to attend by electronic means a hearing in which a person is to give evidence, must provide for the party to use means that enable the party to both see and hear all of the other parties, the judge and (where applicable) the jury and any witness who is giving evidence,
  - (b) how a witness who is to give evidence at a hearing is to attend by electronic means, must provide for the witness to use means that enable all of the parties, the judge and (where applicable) the jury to both see and hear the witness.
- (10) Nothing in [sub-paragraph \(9\)](#) is to be taken to mean that a person is to be enabled to see or hear a witness in a way that measures taken in accordance with an order of the court or tribunal would otherwise prevent.