

---

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Recovery and Reform) (Scotland) Act 2022, Cross Heading: Suspension of requirement for physical attendance in non-criminal proceedings, criminal trials and certain processes. (See end of Document for details)*

---

## SCHEDULE TEMPORARY JUSTICE MEASURES

### PART 1

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

### CHAPTER 2

#### ATTENDING A COURT OR TRIBUNAL

*Suspension of requirement for physical attendance in non-criminal proceedings, criminal trials and certain processes*

- [<sup>F16</sup> (1) This paragraph applies—
- (a) in relation to proceedings that are not criminal proceedings, and
  - (b) in the context of criminal proceedings, only in relation to—
    - (i) a hearing in which a person is to give evidence,
    - (ii) proceedings in which the only party is a public official as defined in paragraph 9(3).
- (2) Any requirement (however expressed) that a person physically attend a court or tribunal does not apply, unless the court or tribunal directs the person to attend physically.
- (3) But [sub-paragraph \(2\)](#) does not apply in relation to a hearing in which a person is to give evidence.
- (4) In the case of a hearing in relation to which [sub-paragraph \(2\)](#) does not apply, the court may disapply any requirement (however expressed) that a person physically attend the court by directing that the person need not do so.
- (5) A court or tribunal may direct a person to physically attend under [sub-paragraph \(2\)](#) only if it considers that allowing the person to attend by electronic means would—
- (a) prejudice the fairness of the proceedings, or
  - (b) otherwise be contrary to the interests of justice.
- (6) A court may disapply a requirement for a person's physical attendance under [sub-paragraph \(4\)](#) only if it considers that allowing the person to attend by electronic means in accordance with [paragraph 8](#) would not—
- (a) prejudice the fairness of the proceedings, or
  - (b) otherwise be contrary to the interests of justice.
- (7) The power to issue a direction under both [sub-paragraphs \(2\)](#) and [\(4\)](#) includes the power to revoke an earlier direction under that sub-paragraph.
- (8) A court or tribunal may issue a direction under [sub-paragraph \(2\)](#) or [\(4\)](#) on the motion of a party or of its own accord.
- (9) In considering whether to issue a direction under [sub-paragraph \(2\)](#) or [\(4\)](#), the court or tribunal must—

**Changes to legislation:** There are currently no known outstanding effects for the Coronavirus (Recovery and Reform) (Scotland) Act 2022, Cross Heading: Suspension of requirement for physical attendance in non-criminal proceedings, criminal trials and certain processes. (See end of Document for details)

- (a) give all parties an opportunity to make representations (subject to sub-paragraph (10)), and
  - (b) have regard to any guidance issued by—
    - (i) the Lord President of the Court of Session, or
    - (ii) the Lord Justice General.
- (10) The first direction in relation to a hearing under sub-paragraph (2) or (4) 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.
- (11) Where a direction under sub-paragraph (2) or (4) is issued in relation to a hearing as described in sub-paragraph (10), 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 revocation of the direction, and
  - (b) deal with any motion for the direction’s revocation,
- before dealing with any other matter at the hearing, other than a decision to adjourn or a matter that an enactment requires that the court deal with before another hearing could practicably be arranged.
- (12) References in [this paragraph](#) to physically attending a court or tribunal are to—
- (a) being in a particular place, or
  - (b) being in the same place as another person,
- for the purpose of any proceedings before a court or tribunal or an office holder of a court or tribunal.]

#### Textual Amendments

- F1** Sch. para. 6 expires in part (3.7.2023) by [The Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(Early Expiry of Provisions\) Regulations 2023 \(S.S.I. 2023/172\)](#), **reg. 2(1)(a)(2)** (with regs. 3, 4)

#### Modifications etc. (not altering text)

- C1** Sch. para. 6 continued until 30.11.2024 (30.11.2023) by virtue of [The Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(Extension and Expiry of Temporary Justice Measures\) Regulations 2023 \(S.S.I. 2023/360\)](#), regs. 1(3), **3(2)**

#### Commencement Information

- I1** Sch. para. 6 in force at 1.10.2022, see **s. 59(1)**

**Changes to legislation:**

There are currently no known outstanding effects for the Coronavirus (Recovery and Reform) (Scotland) Act 2022, Cross Heading: Suspension of requirement for physical attendance in non-criminal proceedings, criminal trials and certain processes.