



**Scottish
Civil Justice
Council**

CONTINUITY OF CIVIL COURT BUSINESS

Electronic Signatures and Electronic Transmission of Documents

Purpose

1. This paper provides members with a brief summary of Act of Sederunt (Electronic Signature and Electronic Transmission of Documents) 2025 (paper 3.3A) and the accompanying Policy Note (paper 3.3B).
2. The Act of Sederunt sets out the provisions which replace the temporary justice measures contained in the Coronavirus (Recovery and Reform) (Scotland) Act 2022¹ and ensures that court users continue to benefit from the ability to send and receive documents electronically.

Background

3. Members approved drafting instructions at the Council meeting on 16 June 2025 (annex 1). The Act of Sederunt achieves the overriding objective of ensuring that the courts can continue to send and receive documents electronically and that electronic signatures are valid in most circumstances. To revert to paper-based processes would be a significant backwards step in the administration of justice.
4. The key points to note in the commencement of this Act of Sederunt:
 - The Electronic Communications Act 2000 (Section 7: Electronic signatures and related certificates) provided for the admissibility of electronic signatures and related certificates in legal proceedings. These provisions gave effect to Coronavirus legislation since 2020, and now give effect to this Act of Sederunt.
 - The Act of Sederunt does not mandate electronic means as the only method for transacting with the court. Lodging of documents in paper format is still acceptable where permitted by existing court rules, or required by any other statute.
5. The drafting instruction also suggested provisions which extended beyond achieving continuity of business and included: 1) introducing a cut off time for documents to be deemed accepted by the court; and 2) for motions to be lodged electronically on the SCTS Civil Online portal; 3) the electronic lodging of productions and authorities. It has become apparent that these aspects will

¹ [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022](#)

need further consideration and consultation, which has not been possible within the timescales. These matters will be brought back to the Council at a later stage.

Draft Rules

6. The Act of Sederunt does not apply to commissary business. It applies to all other court rules in Scotland and broadly mirrors the provisions already in force over the last five years. There is no new policy being introduced.

Recommendation

7. It is recommended that members consider the draft Act of Sederunt and Policy Note (to accompany the Act of Sederunt when laid in the Scottish Parliament) and approve for submission to the Court of Session subject to any stylistic and typographical changes.

SCJC Secretariat**October 2025**

Annex 1- Drafting Instruction

To create rules to enable the continued practice of electronic transacting court documents. The court must be able to:

- 1) Receive any document by any electronic means with the following exemptions:
 - Any document which has to be a traditional document as described in the Requirements of Writing Act 1995;
 - Any document which is associated with adoption procedures including permanence orders
 - Any document which is required to be in a paper based format to comply with any other enactment
 - The rules should make it clear that it is the responsibility of the parties, as required by either statute or by the court to retain the traditional document with the wet signature.
- 2) To send any document associated with any civil action by any electronic means so long as the recipient has agreed to transact electronically:
 - This should include the option to issue 'confirmation certificates' where appropriate with the option of further paper copies being supplied as required.
- 3) Productions should be lodged electronically unless otherwise specified by the court.
- 4) Authorities should be lodged electronically unless otherwise directed by the court.
- 5) Where the Court receives any document electronically either by email or civil online, it shall be deemed to be received by the courts:
 - *on the day of transmission or submission where that occurs **before** 5.00 p.m. on any day; or*
 - *on the day **after** transmission or submission where that occurs after 5.00 p.m. on any day*
- 6) This approach should apply to all procedural codes with overall coverage to include; Rules of the Court of Session; Ordinary Cause Rules (including ASSPIC); Summary Cause Rules; Summary Application Rules; Bankruptcy Rules; Childcare and Maintenance Rules and Child Support Rules.
- 7) Existing channels for transacting must be maintained for access to justice purposes. The approach taken in the Simple Procedure Rules should be replicated as far as is possible.

- 8) Consent for receiving documents electronically should follow the same approach as set out in the 2022 Act.

Electronic signatures

10. The rules should replicate the wording in the 2022 Act to make it clear that an electronic signature fulfils any requirement (however expressed and for whatever purpose) for the signing, initialling or signetting of:

- An order, warrant, citation, minute or any other document produced by the court relating to civil procedure;
- An extract of any document relating to those above;
- Any document that an enactment requires be given to a person in connection with or in order to initiate proceedings;
- Any document that an enactment requires to be signed, initialled or signetted in order that it, or any other thing, may be used in proceedings for any purpose including being used as evidence.

Motions

- 9) Chapter 15A of the Ordinary Cause Rules should be amended to allow submission of the motion by any electronic means and not just for email.