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**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 criminal proceedings, excluding trials and certain processes. (See end of Document for details)

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## 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 criminal proceedings, excluding trials and certain processes*

- 7 (1) This paragraph—
- (a) applies only in relation to criminal proceedings, but
  - (b) does not apply in relation to—
    - (i) a hearing in which a person is to give evidence, or
    - (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 does not apply if—
- (a) a determination made by the Lord Justice General states that it does not, and
  - (b) the court has not directed the person to physically attend.
- (3) A determination under sub-paragraph (2)(a)—
- (a) may, in particular, disapply a requirement for physical attendance—
    - (i) in relation to persons or hearings described in the determination,
    - (ii) by enabling a court to disapply it in circumstances specified in the determination,
  - (b) may make different provision for different purposes and areas,
  - (c) may vary or revoke an earlier determination made under the sub-paragraph,
  - (d) must be made publicly available for so long as it has effect.
- (4) The Lord Justice General may make a determination under sub-paragraph (2)(a) disapplying a requirement for physical attendance only if (taking into account the discretion conferred by sub-paragraph (2)(b)), the Lord Justice General is satisfied that it would not—
- (a) prejudice the fairness of proceedings, or
  - (b) otherwise be contrary to the interests of justice.
- (5) A direction under sub-paragraph (2)(b)—
- (a) may be made by a court on the motion of a party or of its own accord,
  - (b) may revoke an earlier direction made under the sub-paragraph.
- (6) Where, by reason of a determination under sub-paragraph (2)(a), a person is to attend a court hearing by electronic means in accordance with paragraph 8, the court must—
- (a) take steps to ensure that the parties are aware of their right to make a motion for a direction under sub-paragraph (2)(b), and

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(b) deal with any motion for a direction under that sub-paragraph, 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.

(7) References in this paragraph to physically attending a court are to be construed in accordance with paragraph 6(12).

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

**C1** Sch. para. 7 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. 7 in force at 1.10.2022, see [s. 59\(1\)](#)

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