

These notes relate to the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 (asp 10) which received Royal Assent on 5th June 2018

CIVIL LITIGATION (EXPENSES AND GROUP PROCEEDINGS) (SCOTLAND) ACT 2018

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Success Fee Agreements

Section 3 – Expenses in the event of success

10. This section provides that, where a success fee agreement has been entered into, the provider of the relevant services is entitled to retain any expenses recovered from the unsuccessful party, in addition to the agreed success fee. The agreement may, however, make contrary provision. Subsection (3) qualifies this rule in legal aid cases by providing that this provision is subject to section 17(2A) of the Legal Aid (Scotland) Act 1986, which states that any expenses in favour of any party in any proceedings in respect of which they are or have been in receipt of civil legal aid shall be paid to the Scottish Legal Aid Board, unless regulations under that section provide otherwise¹.

¹ See regulation 39 of the Civil Legal Aid (Scotland) Regulations 2002.