

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Expenses in Civil Litigation

Section 9 – Representation free of charge

25. This section makes provision for where a party to civil proceedings is represented for free (“pro bono”), or partly for free. Subsection (2) requires disclosure to the court that there has been free or partially free representation. Subsection (3) allows the court to order that a payment be made to a charity where expenses are awarded to the party benefitting from free or partially free representation. That charity is to be designated under the requirements of subsection (5). Subsection (4) sets out factors that the court is to have regard to in determining whether to make an order and in what terms to make any order. Subsection (5) details that the charity must be designated by the Lord President of the Court of Session and be registered in Scotland, with a charitable purpose of improving access to justice in respect of civil proceedings in Scotland. Subsection (6), however, provides that subsection (3) does not apply where sections 28 and 29 of the Equality Act 2006 apply. Those sections empower the Equality and Human Rights Commission to assist individuals involved in equality proceedings and provide that expenses awarded to a successful assisted person are recoverable by the Commission.