



Courts Reform (Scotland) Act 2014

2014 asp 18

PART 4

PROCEDURE AND FEES

Sanction for counsel

108 Sanction for counsel in the sheriff court and Sheriff Appeal Court

- (1) This section applies in civil proceedings in the sheriff court or the Sheriff Appeal Court where the court is deciding, for the purposes of any relevant expenses rule, whether to sanction the employment of counsel by a party for the purposes of the proceedings.
- (2) The court must sanction the employment of counsel if the court considers, in all the circumstances of the case, that it is reasonable to do so.
- (3) In considering that matter, the court must have regard to—
 - (a) whether the proceedings are such as to merit the employment of counsel, having particular regard to—
 - (i) the difficulty or complexity, or likely difficulty or complexity, of the proceedings,
 - (ii) the importance or value of any claim in the proceedings, and
 - (b) the desirability of ensuring that no party gains an unfair advantage by virtue of the employment of counsel.
- (4) The court may have regard to such other matters as it considers appropriate.
- (5) References in this section to proceedings include references to any part or aspect of the proceedings.
- (6) In this section—
 - “counsel” means—
 - (a) an advocate,
 - (b) a solicitor having a right of audience in the Court of Session under section 25A of the Solicitors (Scotland) Act 1980,
 - “court”, in relation to proceedings in the sheriff court, means the sheriff,

Changes to legislation: Courts Reform (Scotland) Act 2014, Section 108 is up to date with all changes known to be in force on or before 09 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

“relevant expenses rule” means, in relation to any proceedings mentioned in subsection (1), any provision of an act of sederunt requiring, or having the effect of requiring, that the employment of counsel by a party for the purposes of the proceedings be sanctioned by the court before the fees of counsel are allowable as expenses that may be awarded to the party.

(7) This section is subject to an act of sederunt under section 104(1) or 106(1).

Commencement Information

II [S. 108](#) in force at 22.9.2015 by [S.S.I. 2015/247](#), art. 2, [Sch.](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- sch. 1 para. 5A and cross-heading inserted by [2020 asp 9 s. 9](#)
- sch. 1 para. 2(g)(h) inserted by [2021 asp 16 s. 15\(8\)](#)