



# Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018

2018 asp 10

## PART 2

### EXPENSES IN CIVIL LITIGATION

#### **8 Restriction on pursuer's liability for expenses in personal injury claims**

- (1) This section applies in civil proceedings where—
  - (a) the person bringing the proceedings makes a claim for damages for—
    - (i) personal injuries, or
    - (ii) the death of a person from personal injuries, and
  - (b) the person conducts the proceedings in an appropriate manner.
- (2) The court must not make an award of expenses against the person in respect of any expenses which relate to—
  - (a) the claim, or
  - (b) any appeal in respect of the claim.
- (3) Subsection (2) does not prevent the court from making an award in respect of expenses which relate to any other type of claim in the proceedings.
- (4) For the purposes of subsection (1)(b), a person conducts civil proceedings in an appropriate manner unless the person or the person's legal representative—
  - (a) makes a fraudulent representation or otherwise acts fraudulently in connection with the claim or proceedings,
  - (b) behaves in a manner which is manifestly unreasonable in connection with the claim or proceedings, or
  - (c) otherwise, conducts the proceedings in a manner that the court considers amounts to an abuse of process.
- (5) For the purpose of subsection (4)(a), the standard of proof is the balance of probabilities.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Subsection (2) is subject to any exceptions that may be specified in an act of sederunt under section 103(1) or 104(1) of the Courts Reform (Scotland) Act 2014.
- (7) In subsection (1)(a), “personal injuries” include any disease and any impairment of a person’s physical or mental condition.