

*These notes relate to the Courts Reform (Scotland) Act 2014
(asp 18) which received Royal Assent on 10 November 2014*

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 4 – Procedure and Fees

Court fees

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

191. **Section 108** sets out the test to be applied by a court in considering whether to grant sanction for the employment of counsel (that is to say advocates or solicitor advocates) in the sheriff court and the Sheriff Appeal Court, when determining the level of expenses which may be due. In terms of this test, the court is required to sanction the employment of counsel if it considers that to do so is reasonable in all the circumstances of the case. In deciding whether granting sanction would be reasonable, the court must have regard to the criteria set out in subsection (3), which include “the desirability of ensuring that no party gains an unfair advantage by virtue of the employment of counsel”. The Court of Session is able to modify these provisions through court rules made in an act of sederunt under section 104(1) or section 106(1) of the Act. Generally, the expectation is that solicitors will conduct sheriff court and Sheriff Appeal Court litigation (without prejudice for arrangements for party litigants or lay representatives).