

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Success Fee Agreements

Section 1 – Success fee agreements

8. This section sets out the definition of a “success fee agreement”, a term to be used to cover all types of speculative fee agreements and damages based agreements. The term is used in the Act on the basis that, in both of these types of agreements, there is a fee to be paid in the event of success (the “success fee”), but no fee, or a lower one, if the action is lost. Both speculative fee agreements and damages based agreements are therefore types of “no win, no fee” agreements, entered into in connection with actual or contemplated civil proceedings. Success fee agreements concern “relevant services” which are defined to be one of “legal services” or “claims management services” (both as defined in subsection (2)). The definition of success fee agreements also includes, but is not limited to, speculative fee agreements that fall within section 61A of the Solicitors (Scotland) Act 1980.