

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Auditors of Court

Section 14 – Auditors of court

30. [Section 14](#) makes provision for the continuation of the offices of the Auditor of the Court of Session, the auditor of the Sheriff Appeal Court, and auditor of the sheriff court. These are collectively known as auditors of court. The office of the Auditor of the Court of Session currently has a statutory basis in the Court of Session Act 1821 whereas the other auditors of court exist by virtue of commissions issued by the President of the Sheriff Appeal Court and the sheriffs principal of the sheriffdoms, respectively. Section 14 gives all auditors of court a statutory basis.
31. Subsections (3) and (4) provide that the Scottish Courts and Tribunal Service (“SCTS”) is responsible for the appointment of individuals to these offices and the terms of appointment. Subsection (5) sets out that all these auditors of court will be members of SCTS staff¹. Subsection (6) provides that the Auditor of the Court of Session will continue to be a member of the College of Justice². Subsection (7) gives effect to the schedule of modifications of enactments concerning the auditors of court (as further described in paragraphs 53 to 56).

1 “Auditors of court” are to become office-holders in the Scottish Administration by virtue of the Scottish Administration (Offices) Order 2018. Section 64(3) of the Scotland Act 1998 requires office-holders in the Scottish Administration to pay sums received into the Scottish Consolidated Fund. In the case of auditors of court this will include receipts from extra-judicial taxations. Extra-judicial taxation is the determination of expenses relating to a litigation which have not been awarded by a court or tribunal but requested by the parties.

2 The judges of the Court of Session are the Senators of the College of Justice. Advocates, Writers to the Signet, Solicitors to the Supreme Courts, Macers and Supreme Courts staff are also all considered to be members of the College of Justice. Membership of the College does not, today, have any practical consequences. Nevertheless, the existence and membership of the College has a symbolic importance, as it reflects the commitment of all the members of the College to the administration of justice in the Supreme Courts of Scotland, and their involvement, through their different roles, in that common endeavour.