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

2018 asp 10

PART 3

AUDITORS OF COURT

14 Auditors of court

(1) There is to continue to be—

(a) an office of the Court of Session called the Auditor of the Court of Session,

(b) an office of the Sheriff Appeal Court called the auditor of the Sheriff Appeal Court,

(c) an office called the auditor of the sheriff court.

(2) In this Part, the holders of those offices are referred to as the "auditors of court".

(3) The Scottish Courts and Tribunals Service ("the SCTS") has the function of appointing individuals to hold those offices.

(4) A person's appointment as an auditor of court—

(a) lasts for such period, and

(b) is on such other terms and conditions,

as the SCTS may determine.

(5) The auditors of court are also members of the staff of the SCTS and, accordingly, a reference in any enactment to the staff of the SCTS includes, except where the context requires otherwise, a reference to the auditors of court.

(6) The Auditor of the Court of Session is to continue to be a member of the College of Justice.

(7) The schedule modifies enactments in relation to the auditors of court.

15 Temporary Auditor of the Court of Session

(1) Subsection (2) applies during any period when—

(a) the office of the Auditor of the Court of Session is vacant, or
(b) the holder of that office is for any reason unable to carry out the functions of the office.

(2) The Lord President of the Court of Session may appoint a person to act as the Auditor of the Court of Session during that period.

(3) A person appointed under subsection (2)—
(a) is to be appointed on such terms and conditions as the Lord President determines,
(b) while acting as the Auditor of the Court of Session, is to be treated for all purposes, other than those of sections 14(4), (5) and (6) and 18(1) and (6), as the Auditor of the Court of Session.

16 Auditors' functions

(1) An auditor of court—
(a) is to tax such accounts of expenses as are remitted to the auditor for taxation by a court or tribunal,
(b) has such other functions as are conferred on that office by an enactment (including this Act).

(2) An auditor of court may tax such accounts as are submitted to the auditor for taxation otherwise than on remission from a court or tribunal or where required by an enactment.

(3) An auditor of the sheriff court may—
(a) tax an account of expenses remitted to any auditor of the sheriff court by a court or tribunal,
(b) exercise the functions of that office in any sheriffdom.

17 Auditors unable to tax account

(1) Where an account of expenses remitted by a court or tribunal for taxation cannot be taxed by an auditor of court—
(a) the account must be returned to the court or tribunal, and
(b) the court or tribunal must remit the account to a person who is not an auditor of court for taxation.

(2) Where an account is remitted to a person under subsection (1)(b)—
(a) the person is to be treated in relation to the taxation of the account as if the person were an auditor of court (but is not to be treated as an auditor for the purposes of section 14),
(b) the person is entitled to payment of such sums as the Scottish Courts and Tribunals Service may determine by way of—
(i) remuneration in respect of the taxation,
(ii) reimbursement of expenses reasonably incurred by the person in connection with the taxation.

18 Guidance

(1) The Auditor of the Court of Session must issue guidance to the auditors of court about the exercise of their functions.

(2) The guidance may, in particular, include guidance relating to the types and levels of expenses that may be allowed in an account of expenses.

(3) When preparing the guidance, the Auditor of the Court of Session must have regard to the desirability of auditors of court exercising their functions in a manner which is consistent and transparent.

(4) An auditor of court (including the Auditor of the Court of Session) must have regard to the guidance when exercising the auditor's functions.

(5) The guidance must—
- (a) be in writing, and
- (b) be published (as soon as reasonably practicable after it is issued) in such manner as the Auditor of the Court of Session considers appropriate.

(6) The Auditor of the Court of Session may, from time to time, issue revised guidance (and the references to guidance in subsections (2) to (5) include references to any revised guidance).

19 Reports

(1) The Scottish Courts and Tribunals Service ("the SCTS") must publish, for each financial year, a report setting out the information mentioned in subsection (2) in relation to—
- (a) the Auditor of the Court of Session,
- (b) the auditor of the Sheriff Appeal Court,
- (c) the auditors of the sheriff court,
- (d) any person to whom an account is remitted under section 17(1)(b), but only where the information relates to such an account.

(2) That information is—
- (a) the number of judicial taxations carried out during the year, and the amount of fees charged in respect of those taxations,
- (b) the number of other taxations carried out during the year, and the amount of fees charged in respect of those taxations,
- (c) the amount of fees charged in respect of any other work carried out during the year.

(3) A report must be published—
- (a) as soon as practicable after the end of the financial year to which it relates,
- (b) in such manner as the SCTS considers appropriate.

(4) For the purposes of subsection (2), a judicial taxation is the taxation of an account of expenses remitted for taxation to an auditor of court by a court or tribunal.