Arbitration (Scotland) Act 2010

2010 asp 1

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 18th November 2009 and received Royal Assent on 5th January 2010

An Act of the Scottish Parliament to make provision about arbitration.

Modifications etc. (not altering text)

C1 Act applied (with modifications) (temp.) by 1990 c. 16, s. 15B(18) (as inserted (1.4.2015) by Food (Scotland) Act 2015 (asp 1), **ss. 33**, 63(2) (with s. 62); S.S.I. 2015/99, art. 2)

C2 Act applied (with modifications) (temp.) by 2003 c. 21, Sch. 3A para. 107 (as inserted (28.12.2017) by Digital Economy Act 2017 (c. 30), s. 118(6), **Sch. 1** (with Sch. 2); S.I. 2017/1286, reg. 2(b))

C3 Act applied (20.5.2018) by The Motorcycles (Type-Approval) Regulations 2018 (S.I. 2018/235), reg. 1(b), **Sch. 1 para. 13(2)(b)** (with reg. 1(c), Sch. 1 paras. 16, 17)

C4 Act applied (20.5.2018) by The Agricultural and Forestry Vehicles (Type-Approval) Regulations 2018 (S.I. 2018/236), reg. 1(b), **Sch. 1 para. 13(2)(b)** (with reg. 1(c), Sch. 1 paras. 16, 17)

C5 Act applied (21.9.2018) by The Non-Road Mobile Machinery (Type-Approval and Emission of Gaseous and Particulate Pollutants) Regulations 2018 (S.I. 2018/764), reg. 1(b), **Sch. 1 para. 13(2)(b)** (with reg. 1(c))

C6 Act applied (27.10.2018) by The Registered Social Landlords (Repayment Charges) (Scotland) Regulations 2018 (S.S.I. 2018/301), **regs. 1(1)**, 6(3)

Introductory

1 Founding principles

The founding principles of this Act are—

(a) that the object of arbitration is to resolve disputes fairly, impartially and without unnecessary delay or expense,

(b) that parties should be free to agree how to resolve disputes subject only to such safeguards as are necessary in the public interest,

(c) that the court should not intervene in an arbitration except as provided by this Act.

Anyone construing this Act must have regard to the founding principles when doing so.

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Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

C8 Ss. 1-15 excluded by 1949 c. 87, s. 67(4) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 2**)

C9 Ss. 1-15 excluded by 1977 c. 37, s. 130(8) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 5**)

C10 Ss. 1-15 excluded by 1992 c. 52, s. 263(6) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(3)**)

C11 Ss. 1-15 excluded by 1996 c. 17, s. 6(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 7**)

C12 Ss. 1-15 excluded by 1962 c. 46, s. 81(7) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(3)**)

C13 Ss. 1-15 excluded by 1961 c. 34, s. 171 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 3**)

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C16 Ss. 1-15 excluded by 1992 c. 52, s. 212(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(2)**)

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Commencement Information

I1 S. 1 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

2 Key terms

(1) In this Act, unless the contrary intention appears—

"arbitration" includes—

(a) domestic arbitration,

(b) arbitration between parties residing, or carrying on business, anywhere in the United Kingdom, and

(c) international arbitration,

"arbitrator" means a sole arbitrator or a member of a tribunal,

"dispute" includes—

(a) any refusal to accept a claim, and

(b) any other difference (whether contractual or not),

"party" means a party to an arbitration,

"rules" means the Scottish Arbitration Rules (see section 7), and

"tribunal" means a sole arbitrator or panel of arbitrators.

(2) References in this Act to "an arbitration", "the arbitration" or "arbitrations" are references to a particular arbitration process or, as the case may be, to particular arbitration processes.

(3) References in this Act to a tribunal conducting an arbitration are references to the tribunal doing anything in relation to the arbitration, including—

(a) making a decision about procedure or evidence, and

(b) making an award.

Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

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3 Seat of arbitration

(1) An arbitration is "seated in Scotland" if—

(a) Scotland is designated as the juridical seat of the arbitration—

(i) by the parties,

(ii) by any third party to whom the parties give power to so designate, or

(iii) where the parties fail to designate or so authorise a third party, by the tribunal, or

(b) in the absence of any such designation, the court determines that Scotland is to be the juridical seat of the arbitration.

(2) The fact that an arbitration is seated in Scotland does not affect the substantive law to be used to decide the dispute.

Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

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Commencement Information

I2 S. 3 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

Arbitration agreements

4 Arbitration agreement

An "arbitration agreement" is an agreement to submit a present or future dispute to arbitration (including any agreement which provides for arbitration in accordance with arbitration provisions contained in a separate document).

Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

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Commencement Information

I3 S. 4 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

5 Separability

(1) An arbitration agreement which forms (or was intended to form) part only of an agreement is to be treated as a distinct agreement.

(2) An arbitration agreement is not void, voidable or otherwise unenforceable only because the agreement of which it forms part is void, voidable or otherwise unenforceable.

(3) A dispute about the validity of an agreement which includes an arbitration agreement may be arbitrated in accordance with that arbitration agreement.

Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

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I4 S. 5 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

6 Law governing arbitration agreement

Where—

(a) the parties to an arbitration agreement agree that an arbitration under that agreement is to be seated in Scotland, but

(b) the arbitration agreement does not specify the law which is to govern it,

then, unless the parties otherwise agree, the arbitration agreement is to be governed by Scots law.

Modifications etc. (not altering text)

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Commencement Information

I5 S. 6 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

Scottish Arbitration Rules

7 Scottish Arbitration Rules

The Scottish Arbitration Rules set out in schedule 1 are to govern every arbitration seated in Scotland (unless, in the case of a default rule, the parties otherwise agree).

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C17 Ss. 1-15 excluded by 1962 c. 46, Sch. 7 para. 17(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(4)**)

Commencement Information

I6 S. 7 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with arts. 3, 4)

8 Mandatory rules

The following rules, called "mandatory rules", cannot be modified or disapplied (by an arbitration agreement, by any other agreement between the parties or by any other means) in relation to any arbitration seated in Scotland—

rule 3 (arbitrator to be an individual)
rule 4 (eligibility to act as an arbitrator)
rule 7 (failure of appointment procedure)
rule 8 (duty to disclose any conflict of interests)
rules 12 to 16 (removal or resignation of arbitrator or dismissal of tribunal)
rules 19 to 21 and 23 (jurisdiction of tribunal)
rules 24 and 25 (general duties of tribunal and parties)
rule 42 (point of law referral: procedure etc.)
rule 44 (time limit variation: procedure etc.)
rule 45 (securing attendance of witnesses and disclosure of evidence)
rule 48 (power to award payment and damages)
rule 50 (interest)
rule 54 (part awards)
rule 56 (power to withhold award if fees or expenses not paid)

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

rule 60 (arbitrators' fees and expenses)
rule 63 (ban on pre-dispute agreements about liability for arbitration expenses)
rules 67, 68, 70, 71 and 72 (challenging awards)
rules 73 to 75 (immunity)
rule 76 (loss of right to object)
rule 77 (independence of arbitrator)
rule 79 (death of arbitrator)
rule 82 (rules applicable to umpires)

Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

C8 Ss. 1-15 excluded by 1949 c. 87, s. 67(4) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 2**)

C9 Ss. 1-15 excluded by 1977 c. 37, s. 130(8) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 5**)

C10 Ss. 1-15 excluded by 1992 c. 52, s. 263(6) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(3)**)

C11 Ss. 1-15 excluded by 1996 c. 17, s. 6(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 7**)

C12 Ss. 1-15 excluded by 1962 c. 46, s. 81(7) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(3)**)

C13 Ss. 1-15 excluded by 1961 c. 34, s. 171 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 3**)

C14 Ss. 1-15: power to exclude or restrict conferred by 2007 c. 15, Sch. 5 para. 14 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 8**)

C15 Ss. 1-15 excluded by 1949 c. 39, s. 8(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 1**)

C16 Ss. 1-15 excluded by 1992 c. 52, s. 212(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(2)**)

C17 Ss. 1-15 excluded by 1962 c. 46, Sch. 7 para. 17(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(4)**)

Commencement Information

I7 S. 8 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

9 Default rules

(1) The non-mandatory rules are called the “default rules”.

(2) A default rule applies in relation to an arbitration seated in Scotland only in so far as the parties have not agreed to modify or disapply that rule (or any part of it) in relation to that arbitration.

(3) Parties may so agree—
  (a) in the arbitration agreement, or
  (b) by any other means at any time before or after the arbitration begins.

(4) Parties are to be treated as having agreed to modify or disapply a default rule—

(a) if or to the extent that the rule is inconsistent with or disapplied by—

(i) the arbitration agreement,

(ii) any arbitration rules or other document (for example, the UNCITRAL Model Law, the UNCITRAL Arbitration Rules or other institutional rules) which the parties agree are to govern the arbitration, or

(iii) anything done with the agreement of the parties, or

(b) if they choose a law other than Scots law as the applicable law in respect of the rule's subject matter.

This subsection does not affect the generality of subsections (2) and (3).

Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

C8 Ss. 1-15 excluded by 1949 c. 87, s. 67(4) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 2**)

C9 Ss. 1-15 excluded by 1977 c. 37, s. 130(8) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 5**)

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C12 Ss. 1-15 excluded by 1962 c. 46, s. 81(7) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(3)**)

C13 Ss. 1-15 excluded by 1961 c. 34, s. 171 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 3**)

C14 Ss. 1-15: power to exclude or restrict conferred by 2007 c. 15, Sch. 5 para. 14 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 8**)

C15 Ss. 1-15 excluded by 1949 c. 39, s. 8(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 1**)

C16 Ss. 1-15 excluded by 1992 c. 52, s. 212(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(2)**)

C17 Ss. 1-15 excluded by 1962 c. 46, Sch. 7 para. 17(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(4)**)

Commencement Information

I8 S. 9 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

Suspension of legal proceedings

10 Suspension of legal proceedings

(1) The court must, on an application by a party to legal proceedings concerning any matter under dispute, sist those proceedings in so far as they concern that matter if—

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(a) an arbitration agreement provides that a dispute on the matter is to be resolved by arbitration (immediately or after the exhaustion of other dispute resolution procedures),

(b) the applicant is a party to the arbitration agreement (or is claiming through or under such a party),

(c) notice of the application has been given to the other parties to the legal proceedings,

(d) the applicant has not—

(i) taken any step in the legal proceedings to answer any substantive claim against the applicant, or

(ii) otherwise acted since bringing the legal proceedings in a manner indicating a desire to have the dispute resolved by the legal proceedings rather than by arbitration, and

(e) nothing has caused the court to be satisfied that the arbitration agreement concerned is void, inoperative or incapable of being performed.

(2) Any provision in an arbitration agreement which prevents the bringing of the legal proceedings is void in relation to any proceedings which the court refuses to sist.

This subsection does not apply to statutory arbitrations.

(3) This section applies regardless of whether the arbitration concerned is to be seated in Scotland.

Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

C8 Ss. 1-15 excluded by 1949 c. 87, s. 67(4) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 2**)

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C11 Ss. 1-15 excluded by 1996 c. 17, s. 6(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 7**)

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C15 Ss. 1-15 excluded by 1949 c. 39, s. 8(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 1**)

C16 Ss. 1-15 excluded by 1992 c. 52, s. 212(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(2)**)

C17 Ss. 1-15 excluded by 1962 c. 46, Sch. 7 para. 17(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(4)**)

Commencement Information

I9 S. 10 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

Enforcing and challenging arbitral awards etc.

11 Arbitral award to be final and binding on parties

(1) A tribunal's award is final and binding on the parties and any person claiming through or under them (but does not of itself bind any third party).

(2) In particular, an award ordering the rectification or reduction of a deed or other document is of no effect in so far as it would adversely affect the interests of any third party acting in good faith.

(3) This section does not affect the right of any person to challenge the award—
- (a) under Part 8 of the Scottish Arbitration Rules, or
- (b) by any available arbitral process of appeal or review.

(4) This section does not apply in relation to a provisional award (see rule 53), such an award not being final and being binding only—
- (a) to the extent specified in the award, or
- (b) until it is superseded by a subsequent award.

Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

C8 Ss. 1-15 excluded by 1949 c. 87, s. 67(4) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 2**)

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C11 Ss. 1-15 excluded by 1996 c. 17, s. 6(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 7**)

C12 Ss. 1-15 excluded by 1962 c. 46, s. 81(7) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(3)**)

C13 Ss. 1-15 excluded by 1961 c. 34, s. 171 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 3**)

C14 Ss. 1-15: power to exclude or restrict conferred by 2007 c. 15, Sch. 5 para. 14 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 8**)

C15 Ss. 1-15 excluded by 1949 c. 39, s. 8(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 1**)

C16 Ss. 1-15 excluded by 1992 c. 52, s. 212(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(2)**)

C17 Ss. 1-15 excluded by 1962 c. 46, Sch. 7 para. 17(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(4)**)

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Commencement Information

I10 S. 11 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

12 Enforcement of arbitral awards

(1) The court may, on an application by any party, order that a tribunal's award may be enforced as if it were an extract registered decree bearing a warrant for execution granted by the court.

(2) No such order may be made if the court is satisfied that the award is the subject of—
- (a) an appeal under Part 8 of the Scottish Arbitration Rules,
- (b) an arbitral process of appeal or review, or
- (c) a process of correction under rule 58 of the Scottish Arbitration Rules,

which has not been finally determined.

(3) No such order may be made if the court is satisfied that the tribunal which made the award did not have jurisdiction to do so (and the court may restrict the extent of its order if satisfied that the tribunal did not have jurisdiction to make a part of the award).

(4) But a party may not object on the ground that the tribunal did not have jurisdiction if the party has lost the right to raise that objection by virtue of the Scottish Arbitration Rules (see rule 76).

(5) Unless the parties otherwise agree, a tribunal's award may be registered for execution in the Books of Council and Session or in the sheriff court books (provided that the arbitration agreement is itself so registered).

(6) This section applies regardless of whether the arbitration concerned was seated in Scotland.

(7) Nothing in this section or in section 13 affects any other right to rely on or enforce an award in pursuance of—
- (a) sections 19 to 21, or
- (b) any other enactment or rule of law.

(8) In this section, “court” means the sheriff or the Court of Session.

Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

C8 Ss. 1-15 excluded by 1949 c. 87, s. 67(4) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 2**)

C9 Ss. 1-15 excluded by 1977 c. 37, s. 130(8) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 5**)

C10 Ss. 1-15 excluded by 1992 c. 52, s. 263(6) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(3)**)

C11 Ss. 1-15 excluded by 1996 c. 17, s. 6(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 7**)

C12 Ss. 1-15 excluded by 1962 c. 46, s. 81(7) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(3)**)

C13 Ss. 1-15 excluded by 1961 c. 34, s. 171 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 3**)

C14 Ss. 1-15: power to exclude or restrict conferred by 2007 c. 15, Sch. 5 para. 14 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 8**)

C15 Ss. 1-15 excluded by 1949 c. 39, s. 8(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 1**)

C16 Ss. 1-15 excluded by 1992 c. 52, s. 212(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(2)**)

C17 Ss. 1-15 excluded by 1962 c. 46, Sch. 7 para. 17(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(4)**)

Commencement Information

I11 S. 12 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

13 Court intervention in arbitrations

(1) Legal proceedings are competent in respect of—

(a) a tribunal's award, or

(b) any other act or omission by a tribunal when conducting an arbitration,

only as provided for in the Scottish Arbitration Rules (in so far as they apply to that arbitration) or in any other provision of this Act.

(2) In particular, a tribunal's award is not subject to review or appeal in any legal proceedings except as provided for in Part 8 of the Scottish Arbitration Rules.

(3) It is not competent for a party to raise the question of a tribunal's jurisdiction with the court except—

(a) where objecting to an order being made under section 12, or

(b) as provided for in the Scottish Arbitration Rules (see rules 21, 22 and 67).

(4) Where the parties agree that the UNCITRAL Model Law is to apply to an arbitration, articles 6 and 11(2) to (5) of that Law are to have the force of law in Scotland in relation to that arbitration (as if article 6 specified the Court of Session and any sheriff court having jurisdiction).

Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

C8 Ss. 1-15 excluded by 1949 c. 87, s. 67(4) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 2**)

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C11 Ss. 1-15 excluded by 1996 c. 17, s. 6(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 7**)

C12 Ss. 1-15 excluded by 1962 c. 46, s. 81(7) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(3)**)

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C13 Ss. 1-15 excluded by 1961 c. 34, s. 171 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 3**)

C14 Ss. 1-15: power to exclude or restrict conferred by 2007 c. 15, Sch. 5 para. 14 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 8**)

C15 Ss. 1-15 excluded by 1949 c. 39, s. 8(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 1**)

C16 Ss. 1-15 excluded by 1992 c. 52, s. 212(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(2)**)

C17 Ss. 1-15 excluded by 1962 c. 46, Sch. 7 para. 17(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(4)**)

Commencement Information

I12 S. 13 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

14 Persons who take no part in arbitral proceedings

(1) A person alleged to be a party to an arbitration but who takes no part in the arbitration may, by court proceedings, question—

(a) whether there is a valid arbitration agreement (or, in the case of a statutory arbitration, whether the enactment providing for arbitration applies to the dispute),

(b) whether the tribunal is properly constituted, or

(c) what matters have been submitted to arbitration in accordance with the arbitration agreement,

and the court may determine such a question by making such declaration, or by granting such interdict or other remedy, as it thinks appropriate.

(2) Such a person has the same right as a party who participates in the arbitration to appeal against any award made in the arbitration under rule 67 or 68 (jurisdictional and serious irregularity appeals) and rule 71(2) does not apply to such an appeal.

Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

C8 Ss. 1-15 excluded by 1949 c. 87, s. 67(4) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 2**)

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C13 Ss. 1-15 excluded by 1961 c. 34, s. 171 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 3**)

C14 Ss. 1-15: power to exclude or restrict conferred by 2007 c. 15, Sch. 5 para. 14 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 8**)

C15 Ss. 1-15 excluded by 1949 c. 39, s. 8(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 1**)

C16 Ss. 1-15 excluded by 1992 c. 52, s. 212(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(2)**)

C17 Ss. 1-15 excluded by 1962 c. 46, Sch. 7 para. 17(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(4)**)

Commencement Information

I13 S. 14 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

15 Anonymity in legal proceedings

(1) A party to any civil proceedings relating to an arbitration (other than proceedings under section 12) may apply to the court for an order prohibiting the disclosure of the identity of a party to the arbitration in any report of the proceedings.

(2) On such an application, the court must grant the order unless satisfied that disclosure—

(a) is required—

(i) for the proper performance of the discloser's public functions, or

(ii) in order to enable any public body or office-holder to perform public functions properly,

(b) can reasonably be considered as being needed to protect a party's lawful interests,

(c) would be in the public interest, or

(d) would be necessary in the interests of justice.

(3) The court's determination of an application for an order is final.

Modifications etc. (not altering text)

C7 Ss. 1-15 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

C8 Ss. 1-15 excluded by 1949 c. 87, s. 67(4) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 2**)

C9 Ss. 1-15 excluded by 1977 c. 37, s. 130(8) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 5**)

C10 Ss. 1-15 excluded by 1992 c. 52, s. 263(6) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(3)**)

C11 Ss. 1-15 excluded by 1996 c. 17, s. 6(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 7**)

C12 Ss. 1-15 excluded by 1962 c. 46, s. 81(7) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(3)**)

C13 Ss. 1-15 excluded by 1961 c. 34, s. 171 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 3**)

C14 Ss. 1-15: power to exclude or restrict conferred by 2007 c. 15, Sch. 5 para. 14 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 8**)

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

C15 Ss. 1-15 excluded by 1949 c. 39, s. 8(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 1**)

C16 Ss. 1-15 excluded by 1992 c. 52, s. 212(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(2)**)

C17 Ss. 1-15 excluded by 1962 c. 46, Sch. 7 para. 17(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(4)**)

Commencement Information

I14 S. 15 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

Statutory arbitration

16 Statutory arbitration: special provisions

(1) "Statutory arbitration" is arbitration pursuant to an enactment which provides for a dispute to be submitted to arbitration.

(2) References in the Scottish Arbitration Rules (or in any other provision of this Act) to an arbitration agreement are, in the case of a statutory arbitration, references to the enactment which provides for a dispute to be resolved by arbitration.

(3) None of the Scottish Arbitration Rules (or other provisions of this Act) apply to a statutory arbitration if or to the extent that they are excluded by, or are inconsistent with, any provision made by virtue of any other enactment relating to the arbitration.

(4) Every statutory arbitration is to be taken to be seated in Scotland.

(5) The following rules do not apply in relation to statutory arbitration—

rule 43 (extension of time limits)

rule 71(9) (power to declare provision of arbitration agreement void)

rule 80 (death of party)

(6) Despite rule 40, parties to a statutory arbitration may not agree to—

(a) consolidate the arbitration with another arbitration,

(b) hold concurrent hearings, or

(c) authorise the tribunal to order such consolidation or the holding of concurrent hearings,

unless the arbitrations or hearings are to be conducted under the same enactment.

Commencement Information

I15 S. 16 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

17 Power to adapt enactments providing for statutory arbitration

Ministers may by order—

(a) modify any of the Scottish Arbitration Rules, or any other provisions of this Act, in so far as they apply to statutory arbitrations (or to particular statutory arbitrations),

(b) make such modifications of enactments which provide for disputes to be submitted to arbitration as they consider appropriate in consequence of, or in order to give full effect to, any of the Scottish Arbitration Rules or any other provisions of this Act.

Commencement Information
I16 S. 17 in force at 7.6.2010 by S.S.I. 2010/195, **art. 2** (with art. 3)

Recognition and enforcement of New York Convention awards

18 New York Convention awards

(1) A "Convention award" is an award made in pursuance of a written arbitration agreement in the territory of a state (other than the United Kingdom) which is a party to the New York Convention.

(2) An award is to be treated for the purposes of this section as having been made at the seat of the arbitration.

(3) A declaration by Her Majesty by Order in Council that a state is a party to the Convention (or is a party in respect of any territory) is conclusive evidence of that fact.

Commencement Information
I17 S. 18 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

19 Recognition and enforcement of New York Convention awards

(1) A Convention award is to be recognised as binding on the persons as between whom it was made (and may accordingly be relied on by those persons in any legal proceedings in Scotland).

(2) The court may order that a Convention award may be enforced as if it were an extract registered decree bearing a warrant for execution granted by the court.

Commencement Information
I18 S. 19 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

20 Refusal of recognition or enforcement

(1) Recognition or enforcement of a Convention award may be refused only in accordance with this section.

(2) Recognition or enforcement of a Convention award may be refused if the person against whom it is invoked proves—

(a) that a party was under some incapacity under the law applicable to the party,

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(b) that the arbitration agreement was invalid under the law which the parties agree should govern it (or, failing any indication of that law, under the law of the country where the award was made),

(c) that the person—

(i) was not given proper notice of the arbitral process or of the appointment of the tribunal, or

(ii) was otherwise unable to present the person's case,

(d) that the tribunal was constituted, or the arbitration was conducted, otherwise than in accordance with—

(i) the agreement of the parties, or

(ii) failing such agreement, the law of the country where the arbitration took place.

(3) Recognition or enforcement of a Convention award may also be refused if the person against whom it is invoked proves that the award—

(a) deals with a dispute not contemplated by or not falling within the submission to arbitration,

(b) contains decisions on matters beyond the scope of that submission,

(c) is not yet binding on the person, or

(d) has been set aside or suspended by a competent authority.

(4) Recognition or enforcement of a Convention award may also be refused if—

(a) the award relates to a matter which is not capable of being settled by arbitration, or

(b) to do so would be contrary to public policy.

(5) A Convention award containing decisions on matters not submitted to arbitration may be recognised or enforced to the extent that it contains decisions on matters which were so submitted which are separable from decisions on matters not so submitted.

(6) The court before which a Convention award is sought to be relied on may, if an application for the setting aside or suspension of the award is made to a competent authority—

(a) sist the decision on recognition or enforcement of the award,

(b) on the application of the party claiming recognition or enforcement, order the other party to give suitable security.

(7) In this section "competent authority" means a person who has authority to set aside or suspend the Convention award concerned in the country in which (or under the law of which) the Convention award concerned was made.

Commencement Information

I19 S. 20 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

21 Evidence to be produced when seeking recognition or enforcement

(1) A person seeking recognition or enforcement of a Convention award must produce—

(a) the duly authenticated original award (or a duly certified copy of it), and

(b) the original arbitration agreement (or a duly certified copy of it).

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Such a person must also produce a translation of any award or agreement which is in a language other than English (certified by an official or sworn translator or by a diplomatic or consular agent).

Commencement Information

I20 S. 21 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

22 Saving for other bases of recognition or enforcement

Nothing in sections 19 to 21 affects any other right to rely on or enforce a Convention award in pursuance of any other enactment or rule of law.

Commencement Information

I21 S. 22 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

Supplementary

23 Prescription and limitation

(1) The Prescription and Limitation (Scotland) Act 1973 (c. 52) is amended as follows.

(2) In section 4 (positive prescription: interruption)—

(a) in subsection (2)(b), after "Scotland" insert " in respect of which an arbitrator (or panel of arbitrators) has been appointed ",

(b) in subsection (3)(a), for the words from "and" to "served" substitute " , the date when the arbitration begins ",

(c) for subsection (4) substitute—

"(4) An arbitration begins for the purposes of this section—

(a) when the parties to the arbitration agree that it begins, or

(b) in the absence of such agreement, in accordance with rule 1 of the Scottish Arbitration Rules (see section 7 of, and schedule 1 to, the Arbitration (Scotland) Act 2010 (asp 1)).".

(3) In section 9 (negative prescription: interruption)—

(a) in subsection (3), for the words from "and" to "served" substitute " the date when the arbitration begins ",

(b) in subsection (4), for "preliminary notice" substitute " the date when the arbitration begins ".

(4) After section 19C, insert—

"**19CA Interruption of limitation period: arbitration**

(1) Any period during which an arbitration is ongoing in relation to a matter is to be disregarded in any computation of the period specified in section 17(2), 18(2), 18A(1) or 18B(2) of this Act in relation to that matter.

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In this section, "arbitration" means—
(a) any arbitration in Scotland,
(b) any arbitration in a country other than Scotland, being an arbitration an award in which would be enforceable in Scotland.".

(5) In section 22A(4), for the words from "and" to "served" substitute " the date when the arbitration begins (within the meaning of section 4(4) of this Act) ".

(6) After section 22C, insert—

"**22CA Interruption of limitation period for 1987 Act actions: arbitration**

(1) Any period during which an arbitration is ongoing in relation to a matter is to be disregarded in any computation of the period specified in section 22B(2) or 22C(2) of this Act in relation to that matter.

(2) In this section, "arbitration" means—
(a) any arbitration in Scotland,
(b) any arbitration in a country other than Scotland, being an arbitration an award in which would be enforceable in Scotland.".

Commencement Information
I22 S. 23 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with arts. 3, 5)

24 Arbitral appointments referee

(1) Ministers may, by order, authorise persons or types of person who may act as an arbitral appointments referee for the purposes of the Scottish Arbitration Rules.

(2) Ministers must, when making such an order, have regard to the desirability of ensuring that arbitral appointments referees—
(a) have experience relevant to making arbitral appointments, and
(b) are able to provide training, and to operate disciplinary procedures, designed to ensure that arbitrators conduct themselves appropriately.

(3) Despite subsection (2)(b), an arbitral appointments referee is not obliged to appoint arbitrators in respect of whom the referee provides training or operates disciplinary procedures.

Commencement Information
I23 S. 24 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

25 Power of judge to act as arbitrator or umpire

(1) A judge may act as an arbitrator or umpire only where—
(a) the dispute being arbitrated appears to the judge to be of commercial character, and

(b) the Lord President, having considered the state of Court of Session business, has authorised the judge to so act.

(2) A fee of such amount as Ministers may by order prescribe is payable in the Court of Session for the services of a judge acting as an arbitrator or umpire.

(3) Any jurisdiction exercisable by the Outer House under the Scottish Arbitration Rules (or any other provision of this Act) in relation to—

(a) a judge acting as a sole arbitrator or umpire, or

(b) a tribunal which the judge forms part of,

is to be exercisable instead by the Inner House (and the Inner House's decision on any matter is final).

(4) In this section—

"judge" means a judge of the Court of Session, and

"Lord President" means the Lord President of the Court of Session.

Commencement Information

I24 S. 25 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

26 Amendments to UNCITRAL Model Law or Rules or New York Convention

(1) Ministers may by order modify—

(a) the Scottish Arbitration Rules,

(b) any other provision of this Act, or

(c) any enactment which provides for disputes to be resolved by arbitration,

in such manner as they consider appropriate in consequence of any amendment made to the UNCITRAL Model Law, the UNCITRAL Arbitration Rules or the New York Convention.

(2) Before making such an order, Ministers must consult such persons appearing to them to have an interest in the law of arbitration as they think fit.

Commencement Information

I25 S. 26 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

27 Amendment of Conveyancing (Scotland) Act 1924 (c. 27)

In section 46 of the Conveyancing (Scotland) Act 1924—

(a) in subsection (2), for "This section" substitute " Subsection (1) ", and

(b) after subsection (2) insert—

"(3) Where—

(a) an arbitral award orders the reduction of a deed or other document recorded in the Register of Sasines (or forming a midcouple or link of title in a title recorded in that Register), and

Status: *Point in time view as at 27/10/2018.*
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(b) the court orders that the award may be enforced in accordance with section 12 of the Arbitration (Scotland) Act 2010 (asp 1),

subsection (1) applies to the arbitral award as it applies to a decree of reduction of a deed recorded in the Register of Sasines.”.

Commencement Information
I26 S. 27 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

28 Articles of Regulation 1695

The 25th Act of the Articles of Regulation 1695 does not apply in relation to arbitration.

Commencement Information
I27 S. 28 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

29 Repeals

The repeals of the enactments specified in column 1 of schedule 2 have effect to the extent specified in column 2.

Commencement Information
I28 S. 29 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

30 Arbitrability of disputes

Nothing in this Act makes any dispute capable of being arbitrated if, because of its subject-matter, it would not otherwise be capable of being arbitrated.

Commencement Information
I29 S. 30 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

Final provisions

31 Interpretation

(1) In this Act, unless the contrary intention appears—

“arbitral appointments referee” means a person authorised under section 24,
“arbitration” has the meaning given by section 2,
“arbitration agreement” has the meaning given by section 4,
“arbitrator” has the meaning given by section 2,
“claim” includes counterclaim,
“Convention award” has the meaning given by section 18,

"court" means the Outer House or the sheriff (except in sections 1, 3, 10, 13 and 15, where it means any court),

"default rule" has the meaning given by section 9(1),

"dispute" has the meaning given by section 2,

"Inner House" means the Inner House of the Court of Session,

"mandatory rule" has the meaning given by section 8,

"Ministers" means the Scottish Ministers,

"New York Convention" means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations Conference on International Commercial Arbitration on 10 June 1958,

"Outer House" means the Outer House of the Court of Session,

"party" is to be construed in accordance with section 2 and subsection (2) below,

"rule" means one of the Scottish Arbitration Rules,

"Scottish Arbitration Rules" means the rules set out in schedule 1,

"seated in Scotland" has the meaning given by section 3,

"statutory arbitration" has the meaning given by section 16(1),

"tribunal" has the meaning given by section 2,

"UNCITRAL Arbitration Rules" means the arbitration rules adopted by UNCITRAL on 28 April 1976, and

"UNCITRAL Model Law" means the UNCITRAL Model Law on International Commercial Arbitration as adopted by the United Nations Commission on International Trade Law on 21 June 1985 (as amended in 2006).

(2) This Act applies in relation to arbitrations and disputes between three or more parties as it applies in relation to arbitrations and disputes between two parties (with references to both parties being read in such cases as references to all the parties).

32 Ancillary provision

(1) Ministers may by order make any supplementary, incidental, consequential, transitional, transitory or saving provision which they consider appropriate for the purposes of, or in connection with, or for the purposes of giving full effect to, any provision of this Act.

(2) Such an order may modify any enactment, instrument or document.

33 Orders

(1) Any power of Ministers to make orders under this Act—

(a) is exercisable by statutory instrument, and

(b) includes power to make—

(i) any supplementary, incidental, consequential, transitional, transitory or saving provision which Ministers consider appropriate,

(ii) different provision for different purposes.

(2) A statutory instrument containing such an order (or an Order in Council made under section 18) is subject to annulment in pursuance of a resolution of the Scottish Parliament.

This subsection does not apply—

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) to orders made under section 35(2) (commencement orders), or
(b) where subsection (3) makes contrary provision.

(3) An order—
(a) under section 17 or 32 which adds to, replaces or omits any text in this or any other Act,
(b) under section 26, or
(c) under section 36(4),
may be made only if a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, the Scottish Parliament.

34 Crown application

(1) This Act binds the Crown.

(2) Her Majesty may be represented in any arbitration to which she is a party otherwise than in right of the Crown by such person as she may appoint in writing under the Royal Sign Manual.

(3) The Prince and Steward of Scotland may be represented in any arbitration to which he is a party by such person as he may appoint.

(4) References in this Act to a party to an arbitration are, where subsection (2) or (3) applies, to be read as references to the appointed representative.

35 Commencement

(1) The following provisions come into force on Royal Assent—
section 2
sections 31 to 34
this section
section 37

(2) Other provisions come into force on the day Ministers by order appoint.

36 Transitional provisions

(1) This Act does not apply to an arbitration begun before commencement.

(2) This Act otherwise applies to an arbitration agreement whether made on, before or after commencement.

[[F1](3) Despite subsection (2), this Act does not apply to an arbitration arising under an arbitration agreement (other than an enactment) made before commencement if the parties agree that this Act is not to apply to that arbitration.**]**

(4) Ministers may by order specify any day falling at least 5 years after commencement as the day on which subsection (3) is to cease to have effect.

(5) Before making such an order, Ministers must consult such persons appearing to them to have an interest in the law of arbitration as they think fit.

(6) Any reference to an arbiter in an arbitration agreement made before commencement is to be treated as being a reference to an arbitrator.

(7) Any reference in an enactment to a decree arbitral is to be treated for the purposes of section 12 as being a reference to a tribunal's award.

(8) An express provision in an arbitration agreement made before commencement which disapplies section 3 of the Administration of Justice (Scotland) Act 1972 (c. 59) in relation to an arbitration arising under that agreement is, unless the parties otherwise agree, to be treated as being an agreement to disapply rules 41 and 69 in relation to such an arbitration.

(9) In this section, "commencement" means the day on which this section comes into force.

Textual Amendments

F1 S. 36(3) ceases to have effect (1.1.2017) by virtue of The Arbitration (Scotland) Act 2010 (Transitional Provisions) Order 2016 (S.S.I. 2016/435), arts. 1(1), **2** (with art. 3)

Commencement Information

I30 S. 36 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with arts. 3, 6)

37 Short title

This Act is called the Arbitration (Scotland) Act 2010.

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 1

(introduced by section 7)

SCOTTISH ARBITRATION RULES

Modifications etc. (not altering text)

C18 Sch. 1 excluded by 1962 c. 46, s. 74(6)(f) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(2)**)

C19 Sch. 1 excluded by 1962 c. 46, Sch. 7 para. 17(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(4)**)

C20 Sch. 1 excluded by 1961 c. 34, s. 171 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 3**)

C21 Sch. 1 excluded by 1962 c. 46, s. 81(7) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 4(3)**)

C22 Sch. 1 excluded by 1992 c. 52, s. 212(5) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(2)**)

C23 Sch. 1 excluded by 1992 c. 52, s. 263(6) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 6(3)**)

C24 Sch. 1 excluded by 1977 c. 37, s. 130(8) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 5**)

C25 Sch. 1: power to exclude or restrict conferred by 2007 c. 15, Sch. 5 para. 14 (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 8**)

C26 Sch. 1 excluded by 1949 c. 39, s. 8(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 1**)

C27 Sch. 1 excluded by 1949 c. 87, s. 67(4) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 2**)

C28 Sch. 1 excluded by 1996 c. 17, s. 6(2) (as amended (5.6.2010) by The Arbitration (Scotland) Act 2010 (Consequential Amendments) Order 2010 (S.S.I. 2010/220), art. 1, **sch. para. 7**)

Mandatory rules are marked "**M**".

Default rules are marked "**D**".

PART 1

COMMENCEMENT AND CONSTITUTION OF TRIBUNAL ETC.

Rule 1 Commencement of arbitration D

1 An arbitration begins when a party to an arbitration agreement (or any person claiming through or under such a party) gives the other party notice submitting a dispute to arbitration in accordance with the agreement.

Commencement Information

I31 Sch. 1 rule 1 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Rule 2 Appointment of tribunal D

2 An arbitration agreement need not appoint (or provide for appointment of) the tribunal, but if it does so provide it may—

(a) specify who is to form the tribunal,

(b) require the parties to appoint the tribunal,

(c) permit another person to appoint the tribunal, or

(d) provide for the tribunal to be appointed in any other way.

Commencement Information

I32 Sch. 1 rule 2 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 3 Arbitrator to be an individual M

3 Only an individual may act as an arbitrator.

Commencement Information

I33 Sch. 1 rule 3 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 4 Eligibility to act as arbitrator M

4 An individual is ineligible to act as an arbitrator if the individual is—

(a) aged under 16, or

(b) an incapable adult (within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000 (asp 4)).

Commencement Information

I34 Sch. 1 rule 4 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 5 Number of arbitrators D

5 Where there is no agreement as to the number of arbitrators, the tribunal is to consist of a sole arbitrator.

Commencement Information

I35 Sch. 1 rule 5 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 6 Method of appointment D

6 The tribunal is to be appointed as follows—

(a) where there is to be a sole arbitrator, the parties must appoint an eligible individual jointly (and must do so within 28 days of either party requesting the other to do so),

(b) where there is to be a tribunal consisting of two or more arbitrators—

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(i) each party must appoint an eligible individual as an arbitrator (and must do so within 28 days of the other party requesting it to do so), and

(ii) where more arbitrators are to be appointed, the arbitrators appointed by the parties must appoint eligible individuals as the remaining arbitrators.

Commencement Information

I36 Sch. 1 rule 6 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 7 Failure of appointment procedure M

7 (1) This rule applies where a tribunal (or any arbitrator who is to form part of a tribunal) is not, or cannot be, appointed in accordance with—

(a) any appointment procedure set out in the arbitration agreement (or otherwise agreed between the parties), or

(b) rule 6.

(2) Unless the parties otherwise agree, either party may refer the matter to an arbitral appointments referee.

(3) The referring party must give notice of the reference to the other party.

(4) That other party may object to the reference within 7 days of notice of reference being given by making an objection to—

(a) the referring party, and

(b) the arbitral appointments referee.

(5) If—

(a) no such objection is made within that 7 day period, or

(b) the other party waives the right to object before the end of that period,

the arbitral appointments referee may make the necessary appointment.

(6) Where—

(a) a party objects to the arbitral appointments referee making an appointment,

(b) an arbitral appointments referee fails to make an appointment within 21 days of the matter being referred, or

(c) the parties agree not to refer the matter to an arbitral appointments referee,

the court may, on an application by any party, make the necessary appointment.

(7) The court's decision on whom to appoint is final.

(8) Before making an appointment under this rule, the arbitral appointments referee or, as the case may be, the court must have regard to—

(a) the nature and subject-matter of the dispute,

(b) the terms of the arbitration agreement (including, in particular, any terms relating to appointment of arbitrators), and

(c) the skills, qualifications, knowledge and experience which would make an individual suitable to determine the dispute.

Status: *Point in time view as at 27/10/2018.*
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(9) Where an arbitral appointments referee or the court makes an appointment under this rule, the arbitration agreement has effect as if it required that appointment.

Commencement Information
I37 Sch. 1 rule 7 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 8 Duty to disclose any conflict of interests M

8 (1) This rule applies to—
(a) arbitrators, and
(b) individuals who have been asked to be an arbitrator but who have not yet been appointed.

(2) An individual to whom this rule applies must, without delay disclose—
(a) to the parties, and
(b) in the case of an individual not yet appointed as an arbitrator, to any arbitral appointments referee, other third party or court considering whether to appoint the individual as an arbitrator,

any circumstances known to the individual (or which become known to the individual before the arbitration ends) which might reasonably be considered relevant when considering whether the individual is impartial and independent.

Commencement Information
I38 Sch. 1 rule 8 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 9 Arbitrator's tenure D

9 An arbitrator's tenure ends if—
(a) the arbitrator becomes ineligible to act as an arbitrator (see rule 4),
(b) the tribunal revokes the arbitrator's appointment (see rule 10),
(c) the arbitrator is removed by the parties, a third party or the Outer House (see rules 11 and 12),
(d) the Outer House dismisses the tribunal of which the arbitrator forms part (see rule 13), or
(e) the arbitrator resigns (see rule 15) or dies (see rule 79).

Commencement Information
I39 Sch. 1 rule 9 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 10 Challenge to appointment of arbitrator D

10 (1) A party may object to the tribunal about the appointment of an arbitrator.

(2) An objection is competent only if—
(a) it is made on the ground that the arbitrator—

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(i) is not impartial and independent,
(ii) has not treated the parties fairly, or
(iii) does not have a qualification which the parties agreed (before the arbitrator's appointment) that the arbitrator must have,

(b) it states the facts on which it is based,
(c) it is made within 14 days of the objector becoming aware of those facts, and
(d) notice of it is given to the other party.

(3) The tribunal may deal with an objection by confirming or revoking the appointment.

(4) If the tribunal fails to make a decision within 14 days of a competent objection being made, the appointment is revoked.

Commencement Information
I40 Sch. 1 rule 10 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 11 Removal of arbitrator by parties D

11 (1) An arbitrator may be removed—
(a) by the parties acting jointly, or
(b) by any third party to whom the parties give power to remove an arbitrator.

(2) A removal is effected by notifying the arbitrator.

Commencement Information
I41 Sch. 1 rule 11 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 12 Removal of arbitrator by court M

12 The Outer House may remove an arbitrator if satisfied on the application by any party—
(a) that the arbitrator is not impartial and independent,
(b) that the arbitrator has not treated the parties fairly,
(c) that the arbitrator is incapable of acting as an arbitrator in the arbitration (or that there are justifiable doubts about the arbitrator's ability to so act),
(d) that the arbitrator does not have a qualification which the parties agreed (before the arbitrator's appointment) that the arbitrator must have,
(e) that substantial injustice has been or will be caused to that party because the arbitrator has failed to conduct the arbitration in accordance with—
(i) the arbitration agreement,
(ii) these rules (in so far as they apply), or
(iii) any other agreement by the parties relating to conduct of the arbitration.

Commencement Information
I42 Sch. 1 rule 12 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Status: *Point in time view as at 27/10/2018.*
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Rule 13 Dismissal of tribunal by court M

13 The Outer House may dismiss the tribunal if satisfied on the application by a party that substantial injustice has been or will be caused to that party because the tribunal has failed to conduct the arbitration in accordance with—

(a) the arbitration agreement,

(b) these rules (in so far as they apply), or

(c) any other agreement by the parties relating to conduct of the arbitration.

Commencement Information

I43 Sch. 1 rule 13 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 14 Removal and dismissal by court: supplementary M

14 (1) The Outer House may remove an arbitrator, or dismiss the tribunal, only if—

(a) the arbitrator or, as the case may be, tribunal has been—

(i) notified of the application for removal or dismissal, and

(ii) given the opportunity to make representations, and

(b) the Outer House is satisfied—

(i) that any recourse available under rule 10 has been exhausted, and

(ii) that any available recourse to a third party who the parties have agreed is to have power to remove an arbitrator (or dismiss the tribunal) has been exhausted.

(2) A decision of the Outer House under rule 12 or 13 is final.

(3) The tribunal may continue with the arbitration pending the Outer House's decision under rule 12 or 13.

Commencement Information

I44 Sch. 1 rule 14 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 15 Resignation of arbitrator M

15 (1) An arbitrator may resign (by giving notice of resignation to the parties and any other arbitrators) if—

(a) the parties consent to the resignation,

(b) the arbitrator has a contractual right to resign in the circumstances,

(c) the arbitrator's appointment is challenged under rule 10 or 12,

(d) the parties disapply or modify rule 34(1) (expert opinions) after the arbitrator is appointed, or

(e) the Outer House has authorised the resignation.

(2) The Outer House may authorise a resignation only if satisfied, on an application by the arbitrator, that it is reasonable for the arbitrator to resign.

(3) The Outer House's determination of an application for resignation is final.

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Commencement Information
I45 Sch. 1 rule 15 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 16 Liability etc. of arbitrator when tenure ends M

16 (1) Where an arbitrator's tenure ends, the Outer House may, on an application by any party or the arbitrator concerned, make such order as it thinks fit—
(a) about the arbitrator's entitlement (if any) to fees and expenses,
(b) about the repaying of fees or expenses already paid to the arbitrator,
(c) where the arbitrator has resigned, about the arbitrator's liability in respect of acting as an arbitrator.

(2) The Outer House must, when considering whether to make an order in relation to an arbitrator who has resigned, have particular regard to whether the resignation was made in accordance with rule 15.

(3) The Outer House's determination of an application for an order is final.

Commencement Information
I46 Sch. 1 rule 16 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 17 Reconstitution of tribunal D

17 (1) Where an arbitrator's tenure ends, the tribunal must be reconstituted—
(a) in accordance with the procedure used to constitute the original tribunal, or
(b) where that procedure fails, in accordance with rules 6 and 7.

(2) It is for the reconstituted tribunal to decide the extent, if any, to which previous proceedings (including any award made, appointment by or other act done by the previous tribunal) should stand.

(3) The reconstituted tribunal's decision does not affect a party's right to object or appeal on any ground which arose before the tribunal made its decision.

Commencement Information
I47 Sch. 1 rule 17 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 18 Arbitrators nominated in arbitration agreements D

18 Any provision in an arbitration agreement which specifies who is to be an arbitrator ceases to have effect in relation to an arbitration when the specified individual's tenure as an arbitrator for that arbitration ends.

Commencement Information
I48 Sch. 1 rule 18 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Status: *Point in time view as at 27/10/2018.*
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PART 2

JURISDICTION OF TRIBUNAL

Rule 19 Power of tribunal to rule on own jurisdiction M

19 The tribunal may rule on—

(a) whether there is a valid arbitration agreement (or, in the case of a statutory arbitration, whether the enactment providing for arbitration applies to the dispute),

(b) whether the tribunal is properly constituted, and

(c) what matters have been submitted to arbitration in accordance with the arbitration agreement.

Commencement Information

I49 Sch. 1 rule 19 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 20 Objections to tribunal's jurisdiction M

20 (1) Any party may object to the tribunal on the ground that the tribunal does not have, or has exceeded, its jurisdiction in relation to any matter.

(2) An objection must be made—

(a) before, or as soon as is reasonably practicable after, the matter to which the objection relates is first raised in the arbitration, or

(b) where the tribunal considers that circumstances justify a later objection, by such later time as it may allow,

but, in any case, an objection may not be made after the tribunal makes its last award.

(3) If the tribunal upholds an objection it must—

(a) end the arbitration in so far as it relates to a matter over which the tribunal has ruled it does not have jurisdiction, and

(b) set aside any provisional or part award already made in so far as the award relates to such a matter.

(4) The tribunal may—

(a) rule on an objection independently from dealing with the subject-matter of the dispute, or

(b) delay ruling on an objection until it makes its award on the merits of the dispute (and include its ruling in that award),

but, where the parties agree which of these courses the tribunal should take, the tribunal must proceed accordingly.

Commencement Information

I50 Sch. 1 rule 20 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

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Rule 21 Appeal against tribunal's ruling on jurisdictional objection M

21 (1) A party may, no later than 14 days after the tribunal's decision on an objection under rule 20, appeal to the Outer House against the decision.

(2) The tribunal may continue with the arbitration pending determination of the appeal.

(3) The Outer House's decision on the appeal is final.

Commencement Information

I51 Sch. 1 rule 21 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 22 Referral of point of jurisdiction D

22 The Outer House may, on an application by any party, determine any question as to the tribunal's jurisdiction.

Commencement Information

I52 Sch. 1 rule 22 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 23 Jurisdiction referral: procedure etc. M

23 (1) This rule applies only where an application is made under rule 22.

(2) Such an application is valid only if—

(a) the parties have agreed that it may be made, or

(b) the tribunal has consented to it being made and the court is satisfied—

(i) that determining the question is likely to produce substantial savings in expenses,

(ii) that the application was made without delay, and

(iii) that there is a good reason why the question should be determined by the court.

(3) The tribunal may continue with the arbitration pending determination of an application.

(4) The Outer House's determination of the question is final (as is any decision by the Outer House as to whether an application is valid).

Commencement Information

I53 Sch. 1 rule 23 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

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PART 3

GENERAL DUTIES

Rule 24 General duty of the tribunal M

24 (1) The tribunal must—
- (a) be impartial and independent,
- (b) treat the parties fairly, and
- (c) conduct the arbitration—
  - (i) without unnecessary delay, and
  - (ii) without incurring unnecessary expense.

(2) Treating the parties fairly includes giving each party a reasonable opportunity to put its case and to deal with the other party's case.

Commencement Information
I54 Sch. 1 rule 24 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 25 General duty of the parties M

25 The parties must ensure that the arbitration is conducted—
- (a) without unnecessary delay, and
- (b) without incurring unnecessary expense.

Commencement Information
I55 Sch. 1 rule 25 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 26 Confidentiality D

26 (1) Disclosure by the tribunal, any arbitrator or a party of confidential information relating to the arbitration is to be actionable as a breach of an obligation of confidence unless the disclosure—
- (a) is authorised, expressly or impliedly, by the parties (or can reasonably be considered as having been so authorised),
- (b) is required by the tribunal or is otherwise made to assist or enable the tribunal to conduct the arbitration,
- (c) is required—
  - (i) in order to comply with any enactment or rule of law,
  - (ii) for the proper performance of the discloser's public functions, or
  - (iii) in order to enable any public body or office-holder to perform public functions properly,
- (d) can reasonably be considered as being needed to protect a party's lawful interests,
- (e) is in the public interest,
- (f) is necessary in the interests of justice, or

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(g) is made in circumstances in which the discloser would have absolute privilege had the disclosed information been defamatory.

(2) The tribunal and the parties must take reasonable steps to prevent unauthorised disclosure of confidential information by any third party involved in the conduct of the arbitration.

(3) The tribunal must, at the outset of the arbitration, inform the parties of the obligations which this rule imposes on them.

(4) "Confidential information", in relation to an arbitration, means any information relating to—

(a) the dispute,

(b) the arbitral proceedings,

(c) the award, or

(d) any civil proceedings relating to the arbitration in respect of which an order has been granted under section 15 of this Act,

which is not, and has never been, in the public domain.

Commencement Information

I56 Sch. 1 rule 26 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 27 Tribunal deliberations D

27 (1) The tribunal's deliberations may be undertaken in private and accordingly need not be disclosed to the parties.

(2) But, where an arbitrator fails to participate in any of the tribunal's deliberations, the tribunal must disclose that fact (and the extent of the failure) to the parties.

Commencement Information

I57 Sch. 1 rule 27 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

PART 4

ARBITRAL PROCEEDINGS

Rule 28 Procedure and evidence D

28 (1) It is for the tribunal to determine—

(a) the procedure to be followed in the arbitration, and

(b) the admissibility, relevance, materiality and weight of any evidence.

(2) In particular, the tribunal may determine—

(a) when and where the arbitration is to be conducted,

(b) whether parties are to submit claims or defences and, if so, when they should do so and the extent to which claims or defences may be amended,

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(c) whether any documents or other evidence should be disclosed by or to any party and, if so, when such disclosures are to be made and to whom copies of disclosed documents and information are to be given,

(d) whether any and, if so, what questions are to be put to and answered by the parties,

(e) whether and, if so, to what extent the tribunal should take the initiative in ascertaining the facts and the law,

(f) the extent to which the arbitration is to proceed by way of—

(i) hearings for the questioning of parties,

(ii) written or oral argument,

(iii) presentation or inspection of documents or other evidence, or

(iv) submission of documents or other evidence,

(g) the language to be used in the arbitration (and whether a party is to supply translations of any document or other evidence),

(h) whether to apply rules of evidence used in legal proceedings or any other rules of evidence.

Commencement Information

I58 Sch. 1 rule 28 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 29 Place of arbitration D

29 The tribunal may meet, and otherwise conduct the arbitration, anywhere it chooses (in or outwith Scotland).

Commencement Information

I59 Sch. 1 rule 29 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 30 Tribunal decisions D

30 (1) Where the tribunal is unable to make a decision unanimously (including any decision on an award), a decision made by the majority of the arbitrators is sufficient.

(2) Where there is neither unanimity nor a majority in favour of or opposed to making any decision—

(a) the decision is to be made by the arbitrator nominated to chair the tribunal, or

(b) where no person has been so nominated, the decision is to be made—

(i) where the tribunal consists of 3 or more arbitrators, by the last arbitrator to be appointed, or

(ii) where the tribunal consists of 2 arbitrators, by an umpire appointed by the tribunal or, where the tribunal fails to make an appointment within 14 days of being requested to do so by either party or any arbitrator, by an arbitral appointments referee (at the request of a party or an arbitrator).

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Commencement Information
I60 Sch. 1 rule 30 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 31 Tribunal directions D

31 (1) The tribunal may give such directions to the parties as it considers appropriate for the purposes of conducting the arbitration.

(2) A party must comply with such a direction by such time as the tribunal specifies.

Commencement Information
I61 Sch. 1 rule 31 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 32 Power to appoint clerk, agents or employees etc. D

32 (1) The tribunal may appoint a clerk (and such other agents, employees or other persons as it thinks fit) to assist it in conducting the arbitration.

(2) But the parties' consent is required for any appointment in respect of which significant expenses are likely to arise.

Commencement Information
I62 Sch. 1 rule 32 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 33 Party representatives D

33 (1) A party may be represented in the arbitration by a lawyer or any other person.

(2) But the party must, before representation begins, give notice of the representative—
(a) to the tribunal, and
(b) to the other party.

Commencement Information
I63 Sch. 1 rule 33 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 34 Experts D

34 (1) The tribunal may obtain an expert opinion on any matter arising in the arbitration.

(2) The parties must be given a reasonable opportunity—
(a) to make representations about any written expert opinion, and
(b) to hear any oral expert opinion and to ask questions of the expert giving it.

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Commencement Information

I64 Sch. 1 rule 34 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 35 Powers relating to property D

35 The tribunal may direct a party—

(a) to allow the tribunal, an expert or another party—

(i) to inspect, photograph, preserve or take custody of any property which that party owns or possesses which is the subject of the arbitration (or as to which any question arises in the arbitration), or

(ii) to take samples from, or conduct an experiment on, any such property, or

(b) to preserve any document or other evidence which the party possesses or controls.

Commencement Information

I65 Sch. 1 rule 35 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 36 Oaths or affirmations D

36 The tribunal may—

(a) direct that a party or witness is to be examined on oath or affirmation, and

(b) administer an oath or affirmation for that purpose.

Commencement Information

I66 Sch. 1 rule 36 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 37 Failure to submit claim or defence timeously D

37 (1) Where—

(a) a party unnecessarily delays in submitting or in otherwise pursuing a claim,

(b) the tribunal considers that there is no good reason for the delay, and

(c) the tribunal is satisfied that the delay—

(i) gives, or is likely to give, rise to a substantial risk that it will not be possible to resolve the issues in that claim fairly, or

(ii) has caused, or is likely to cause, serious prejudice to the other party,

the tribunal must end the arbitration in so far as it relates to the subject-matter of the claim and may make such award (including an award on expenses) as it considers appropriate in consequence of the claim.

(2) Where—

(a) a party unnecessarily delays in submitting a defence to the tribunal, and

(b) the tribunal considers that there is no good reason for the delay,

the tribunal must proceed with the arbitration (but the delay is not, in itself, to be treated as an admission of anything).

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Commencement Information
I67 Sch. 1 rule 37 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 38 Failure to attend hearing or provide evidence D

38 Where—
(a) a party fails—
(i) to attend a hearing which the tribunal requested the party to attend a reasonable period in advance of the hearing, or
(ii) to produce any document or other evidence requested by the tribunal, and
(b) the tribunal considers that there is no good reason for the failure,
the tribunal may proceed with the arbitration, and make its award, on the basis of the evidence (if any) before it.

Commencement Information
I68 Sch. 1 rule 38 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 39 Failure to comply with tribunal direction or arbitration agreement D

39 (1) Where a party fails to comply with—
(a) any direction made by the tribunal, or
(b) any obligation imposed by—
(i) the arbitration agreement,
(ii) these rules (in so far as they apply), or
(iii) any other agreement by the parties relating to conduct of the arbitration,
the tribunal may order the party to so comply.

(2) Where a party fails to comply with an order made under this rule, the tribunal may do any of the following—
(a) direct that the party is not entitled to rely on any allegation or material which was the subject-matter of the order,
(b) draw adverse inferences from the non-compliance,
(c) proceed with the arbitration and make its award,
(d) make such provisional award (including an award on expenses) as it considers appropriate in consequence of the non-compliance.

Commencement Information
I69 Sch. 1 rule 39 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 40 Consolidation of proceedings D

40 (1) Parties may agree—

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) to consolidate the arbitration with another arbitration, or
(b) to hold concurrent hearings.

(2) But the tribunal may not order such consolidation, or the holding of concurrent hearings, on its own initiative.

Commencement Information
I70 Sch. 1 rule 40 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

PART 5

POWERS OF COURT IN RELATION TO ARBITRAL PROCEEDINGS

Rule 41 Referral of point of law D

41 The Outer House may, on an application by any party, determine any point of Scots law arising in the arbitration.

Commencement Information
I71 Sch. 1 rule 41 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 42 Point of law referral: procedure etc. M

42 (1) This rule applies only where an application is made under rule 41.

(2) Such an application is valid only if—
(a) the parties have agreed that it may be made, or
(b) the tribunal has consented to it being made and the court is satisfied—
(i) that determining the question is likely to produce substantial savings in expenses,
(ii) that the application was made without delay, and
(iii) that there is a good reason why the question should be determined by the court.

(3) The tribunal may continue with the arbitration pending determination of the application.

(4) The Outer House's determination of the question is final (as is any decision by the Outer House as to whether an application is valid).

Commencement Information
I72 Sch. 1 rule 42 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Rule 43 Variation of time limits set by parties D

43 The court may, on an application by the tribunal or any party, vary any time limit relating to the arbitration which is imposed—

(a) in the arbitration agreement, or

(b) by virtue of any other agreement between the parties.

Commencement Information

I73 Sch. 1 rule 43 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 44 Time limit variation: procedure etc. M

44 (1) This rule applies only where an application for variation of time limit is made under rule 43.

(2) Such a variation may be made only if the court is satisfied—

(a) that no arbitral process for varying the time limit is available, and

(b) that someone would suffer a substantial injustice if no variation was made.

(3) It is for the court to determine the extent of any variation.

(4) The tribunal may continue with the arbitration pending determination of an application.

(5) The court's decision on whether to make a variation (and, if so, on the extent of the variation) is final.

Commencement Information

I74 Sch. 1 rule 44 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 45 Court's power to order attendance of witnesses and disclosure of evidence M

45 (1) The court may, on an application by the tribunal or any party, order any person—

(a) to attend a hearing for the purposes of giving evidence to the tribunal, or

(b) to disclose documents or other material evidence to the tribunal.

(2) But the court may not order a person to give any evidence, or to disclose anything, which the person would be entitled to refuse to give or disclose in civil proceedings.

(3) The tribunal may continue with the arbitration pending determination of an application.

(4) The court's decision on whether to make an order is final.

Commencement Information

I75 Sch. 1 rule 45 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Rule 46 Court's other powers in relation to arbitration D

46 (1) The court has the same power in an arbitration as it has in civil proceedings—
- (a) to appoint a person to safeguard the interests of any party lacking capacity,
- (b) to order the sale of any property in dispute in the arbitration,
- (c) to make an order securing any amount in dispute in the arbitration,
- (d) to make an order under section 1 of the Administration of Justice (Scotland) Act 1972 (c. 59),
- (e) to grant warrant for arrestment or inhibition,
- (f) to grant interdict (or interim interdict), or
- (g) to grant any other interim or permanent order.

(2) But the court may take such action only—
- (a) on an application by any party, and
- (b) if the arbitration has begun—
  - (i) with the consent of the tribunal, or
  - (ii) where the court is satisfied that the case is one of urgency.

(3) The tribunal may continue with the arbitration pending determination of the application.

(4) This rule applies—
- (a) to arbitrations which have begun,
- (b) where the court is satisfied—
  - (i) that a dispute has arisen or might arise, and
  - (ii) that an arbitration agreement provides that such a dispute is to be resolved by arbitration.

(5) This rule does not affect—
- (a) any other powers which the court has under any enactment or rule of law in relation to arbitrations, or
- (b) the tribunal's powers.

Commencement Information
I76 Sch. 1 rule 46 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

PART 6

AWARDS

Rule 47 Rules applicable to the substance of the dispute D

47 (1) The tribunal must decide the dispute in accordance with—
- (a) the law chosen by the parties as applicable to the substance of the dispute, or
- (b) if no such choice is made (or where a purported choice is unlawful), the law determined by the conflict of law rules which the tribunal considers applicable.

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Accordingly, the tribunal must not decide the dispute on the basis of general considerations of justice, fairness or equity unless—
  (a) they form part of the law concerned, or
  (b) the parties otherwise agree.

(3) When deciding the dispute, the tribunal must have regard to—
  (a) the provisions of any contract relating to the substance of the dispute,
  (b) the normal commercial or trade usage of any undefined terms in the provisions of any such contract,
  (c) any established commercial or trade customs or practices relevant to the substance of the dispute, and
  (d) any other matter which the parties agree is relevant in the circumstances.

Commencement Information
I77 Sch. 1 rule 47 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 48 Power to award payment and damages M

48 (1) The tribunal's award may order the payment of a sum of money (including a sum in respect of damages).

(2) Such a sum must be specified—
  (a) in any currency agreed by the parties, or
  (b) the absence of such agreement, in such currency as the tribunal considers appropriate.

Commencement Information
I78 Sch. 1 rule 48 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 49 Other remedies available to tribunal D

49 The tribunal's award may—
  (a) be of a declaratory nature,
  (b) order a party to do or refrain from doing something (including ordering the performance of a contractual obligation), or
  (c) order the rectification or reduction of any deed or other document (other than a decree of court) to the extent permitted by the law governing the deed or document.

Commencement Information
I79 Sch. 1 rule 49 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 50 Interest M

50 (1) The tribunal's award may order that interest is to be paid on—

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Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the whole or part of any amount which the award orders to be paid (or which is payable in consequence of a declaratory award), in respect of any period up to the date of the award,

(b) the whole or part of any amount which is—

(i) claimed in the arbitration and outstanding when the arbitration began, but

(ii) paid before the tribunal made its award,

in respect of any period up to the date of payment,

(c) the outstanding amount of any amounts awarded (including any award of arbitration expenses or pre-award interest under paragraph (a) or (b)) in respect of any period from the date of the award up to the date of payment.

(2) An award ordering payment of interest may, in particular, specify—

(a) the interest rate,

(b) the period for which interest is payable (including any rests which the tribunal considers appropriate).

(3) An award may make different interest provision in respect of different amounts.

(4) Interest is to be calculated—

(a) in the manner agreed by the parties, or

(b) failing such agreement, in such manner as the tribunal determines.

(5) This rule does not affect any other power of the tribunal to award interest.

Commencement Information

I80 Sch. 1 rule 50 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 51 Form of award D

51 (1) The tribunal's award must be signed by all arbitrators or all those assenting to the award.

(2) The tribunal's award must state—

(a) the seat of the arbitration,

(b) when the award is made and when it takes effect,

(c) the tribunal's reasons for the award, and

(d) whether any previous provisional or part award has been made (and the extent to which any previous provisional award is superseded or confirmed).

(3) The tribunal's award is made by delivering it to each of the parties in accordance with rule 83.

Commencement Information

I81 Sch. 1 rule 51 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Rule 52 Award treated as made in Scotland D

52 An award is to be treated as having been made in Scotland even if it is signed at, or delivered to or from, a place outwith Scotland.

Commencement Information

I82 Sch. 1 rule 52 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 53 Provisional awards D

53 The tribunal may make a provisional award granting any relief on a provisional basis which it has the power to grant permanently.

Commencement Information

I83 Sch. 1 rule 53 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 54 Part awards M

54 (1) The tribunal may make more than one award at different times on different aspects of the matters to be determined.

(2) A "part award" is an award which decides some (but not all) of the matters which the tribunal is to decide in the arbitration.

(3) A part award must specify the matters to which it relates.

Commencement Information

I84 Sch. 1 rule 54 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 55 Draft awards D

55 Before making an award, the tribunal—

(a) may send a draft of its proposed award to the parties, and

(b) if it does so, must consider any representations from the parties about the draft which the tribunal receives by such time as it specifies.

Commencement Information

I85 Sch. 1 rule 55 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 56 Power to withhold award on non-payment of fees or expenses M

56 (1) The tribunal may refuse to deliver or send its award to the parties if any fees and expenses for which they are liable under rule 60 have not been paid in full.

(2) Where the tribunal so refuses, the court may (on an application by any party) order—

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) that the tribunal must deliver the award on the applicant paying into the court an amount equal to the fees and expenses demanded (or such lesser amount as may be specified in the order),

(b) that the amount paid into the court is to be used to pay the fees and expenses which the court determines as being properly payable, and

(c) that the balance (if any) of the amount paid into the court is to be repaid to the applicant.

(3) The court may make such an order only if the applicant has exhausted any available arbitral process of appeal or review of the amount of the fees and expenses demanded.

(4) The court's decision on an application under this rule is final.

Commencement Information

I86 Sch. 1 rule 56 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 57 Arbitration to end on last award or early settlement D

57 (1) An arbitration ends when the last award to be made in the arbitration is made (and no claim, including any claim for expenses or interest, is outstanding).

(2) But this does not prevent the tribunal from ending the arbitration before then under rule 20(3) or 37(1).

(3) The parties may end the arbitration at any time by notifying the tribunal that they have settled the dispute.

(4) On the request of the parties, the tribunal may make an award reflecting the terms of the settlement and these rules (except for rule 51(2)(c) and Part 8) apply to such an award as they apply to any other award.

(5) The fact that the arbitration has ended does not affect the operation of these rules (in so far as they apply) in relation to matters connected with the arbitration.

Commencement Information

I87 Sch. 1 rule 57 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 58 Correcting an award D

58 (1) The tribunal may correct an award so as to—

(a) correct a clerical, typographical or other error in the award arising by virtue of accident or omission, or

(b) clarify or remove any ambiguity in the award.

(2) The tribunal may make such a correction—

(a) on its own initiative, or

(b) on an application by any party.

(3) A party making an application under this rule must send a copy of the application to the other party at the same time as the application is made.

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Such an application is valid only if made—

(a) within 28 days of the award concerned, or

(b) by such later date as the Outer House or the sheriff may, on an application by the party, specify (with any determination by the Outer House or the sheriff being final).

(5) The tribunal must, before deciding whether to correct an award, give—

(a) where the tribunal proposed the correction, each of the parties,

(b) where a party application is made, the other party,

a reasonable opportunity to make representations about the proposed correction.

(6) A correction may be made under this rule only—

(a) where the tribunal proposed the correction, within 28 days of the award concerned being made, or

(b) where a party application is made, within 28 days of the application being made.

(7) Where a correction affects—

(a) another part of the corrected award, or

(b) any other award made by the tribunal (relating to the substance of the dispute, expenses, interest or any other matter),

the tribunal may make such consequential correction of that other part or award as it considers appropriate.

(8) A corrected award is to be treated as if it was made in its corrected form on the day the award was made.

Commencement Information

I88 Sch. 1 rule 58 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

PART 7

ARBITRATION EXPENSES

Rule 59 Arbitration expenses D

59 "Arbitration expenses" means—

(a) the arbitrators' fees and expenses for which the parties are liable under rule 60,

(b) any expenses incurred by the tribunal when conducting the arbitration for which the parties are liable under rule 60,

(c) the parties' legal and other expenses, and

(d) the fees and expenses of—

(i) any arbitral appointments referee, and

(ii) any other third party to whom the parties give powers in relation to the arbitration,

for which the parties are liable under rule 60.

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I89 Sch. 1 rule 59 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 60 Arbitrators' fees and expenses M

60 (1) The parties are severally liable to pay to the arbitrators—

(a) the arbitrators' fees and expenses, including—

(i) the arbitrators' fees for conducting the arbitration,

(ii) expenses incurred personally by the arbitrators when conducting the arbitration, and

(b) expenses incurred by the tribunal when conducting the arbitration, including—

(i) the fees and expenses of any clerk, agent, employee or other person appointed by the tribunal to assist it in conducting the arbitration,

(ii) the fees and expenses of any expert from whom the tribunal obtains an opinion,

(iii) any expenses in respect of meeting and hearing facilities, and

(iv) any expenses incurred in determining recoverable arbitration expenses.

(2) The parties are also severally liable to pay the fees and expenses of—

(a) any arbitral appointments referee, and

(b) any other third party to whom the parties give powers in relation to the arbitration.

(3) The amount of fees and expenses payable under this rule and the payment terms are—

(a) to be agreed by the parties and the arbitrators or, as the case may be, the arbitral appointments referee or other third party, or

(b) failing such agreement, to be determined by the Auditor of the Court of Session.

(4) Unless the Auditor of the Court of Session decides otherwise—

(a) the amount of any fee is to be determined by the Auditor on the basis of a reasonable commercial rate of charge, and

(b) the amount of any expenses is to be determined by the Auditor on the basis that a reasonable amount is to be allowed in respect of all reasonably incurred expenses.

(5) The Auditor of the Court of Session may, when determining the amount of fees and expenses, order the repayment of any fees or expenses already paid which the Auditor considers excessive (and such an order has effect as if it was made by the court).

(6) This rule does not affect—

(a) the parties' liability as between themselves for fees and expenses covered by this rule (see rules 62 and 65), or

(b) the Outer House's power to make an order under rule 16 (order relating to expenses in cases of arbitrator's resignation or removal).

Status: *Point in time view as at 27/10/2018.*
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Commencement Information

I90 Sch. 1 rule 60 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 61 Recoverable arbitration expenses D

61 (1) The following arbitration expenses are recoverable—

(a) the arbitrators' fees and expenses for which the parties are liable under rule 60,

(b) any expenses incurred by the tribunal when conducting the arbitration for which the parties are liable under rule 60, and

(c) the fees and expenses of any arbitral appointments referee (or any other third party to whom the parties give powers in relation to the arbitration) for which the parties are liable under rule 60.

(2) It is for the tribunal to—

(a) determine the amount of the other arbitration expenses which are recoverable, or

(b) arrange for the Auditor of the Court of Session to determine that amount.

(3) Unless the tribunal or, as the case may be, the Auditor decides otherwise—

(a) the amount of the other arbitration expenses which are recoverable must be determined on the basis that a reasonable amount is to be allowed in respect of all reasonably incurred expenses, and

(b) any doubt as to whether expenses were reasonably incurred or are reasonable in amount is to be resolved in favour of the person liable to pay the expenses.

Commencement Information

I91 Sch. 1 rule 61 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 62 Liability for recoverable arbitration expenses D

62 (1) The tribunal may make an award allocating the parties' liability between themselves for the recoverable arbitration expenses (or any part of those expenses).

(2) When making an award under this rule, the tribunal must have regard to the principle that expenses should follow a decision made in favour of a party except where this would be inappropriate in the circumstances.

(3) Until such an award is made (or where the tribunal chooses not to make such an award) in respect of recoverable arbitration expenses (or any part of them), the parties are, as between themselves, each liable—

(a) for an equal share of any such expenses for which the parties are liable under rule 60, and

(b) for their own legal and other expenses.

(4) This rule does not affect—

(a) the parties' several liability for fees and expenses under rule 60, or

(b) the liability of any party to any other third party.

Status: *Point in time view as at 27/10/2018.*
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Commencement Information

I92 Sch. 1 rule 62 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 63 Ban on pre-dispute agreements about liability for arbitration expenses M

63 Any agreement allocating the parties' liability between themselves for any or all of the arbitration expenses has no effect if entered into before the dispute being arbitrated has arisen.

Commencement Information

I93 Sch. 1 rule 63 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 64 Security for expenses D

64 (1) The tribunal may—

(a) order a party making a claim to provide security for the recoverable arbitration expenses or any part of them, and

(b) if that order is not complied with, make an award dismissing any claim made by that party.

(2) But such an order may not be made only on the ground that the party—

(a) is an individual who ordinarily resides outwith the United Kingdom, or

(b) is a body which is—

(i) incorporated or formed under the law of a country outwith the United Kingdom, or

(ii) managed or controlled from outwith the United Kingdom.

Commencement Information

I94 Sch. 1 rule 64 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 65 Limitation of recoverable arbitration expenses D

65 (1) A provisional or part award may cap a party's liability for the recoverable arbitration expenses at an amount specified in the award.

(2) But an award imposing such a cap must be made sufficiently in advance of the expenses to which the cap relates being incurred, or the taking of any steps in the arbitration which may be affected by the cap, for the parties to take account of it.

Commencement Information

I95 Sch. 1 rule 65 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Rule 66 Awards on recoverable arbitration expenses D

66 An expenses award (under rule 62 or 65) may be made together with or separately from an award on the substance of the dispute (and these rules apply in relation to an expenses award as they apply to an award on the substance of the dispute).

Commencement Information

I96 Sch. 1 rule 66 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

PART 8

CHALLENGING AWARDS

Rule 67 Challenging an award: substantive jurisdiction M

67 (1) A party may appeal to the Outer House against the tribunal's award on the ground that the tribunal did not have jurisdiction to make the award (a "jurisdictional appeal").

(2) The Outer House may decide a jurisdictional appeal by—

(a) confirming the award,

(b) varying the award (or part of it), or

(c) setting aside the award (or part of it).

(3) Any variation by the Outer House has effect as part of the tribunal's award.

(4) An appeal may be made to the Inner House against the Outer House's decision on a jurisdictional appeal (but only with the leave of the Outer House).

(5) Leave may be given by the Outer House only where it considers—

(a) that the proposed appeal would raise an important point of principle or practice, or

(b) that there is another compelling reason for the Inner House to consider the appeal.

(6) The Outer House's decision on whether to grant such leave is final.

(7) The Inner House's decision on such an appeal is final.

Commencement Information

I97 Sch. 1 rule 67 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 68 Challenging an award: serious irregularity M

68 (1) A party may appeal to the Outer House against the tribunal's award on the ground of serious irregularity (a "serious irregularity appeal").

(2) "Serious irregularity" means an irregularity of any of the following kinds which has caused, or will cause, substantial injustice to the appellant—

(a) the tribunal failing to conduct the arbitration in accordance with—

(i) the arbitration agreement,

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(ii) these rules (in so far as they apply), or

(iii) any other agreement by the parties relating to conduct of the arbitration,

(b) the tribunal acting outwith its powers (other than by exceeding its jurisdiction),

(c) the tribunal failing to deal with all the issues that were put to it,

(d) any arbitral appointments referee or other third party to whom the parties give powers in relation to the arbitration acting outwith powers,

(e) uncertainty or ambiguity as to the award's effect,

(f) the award being—

(i) contrary to public policy, or

(ii) obtained by fraud or in a way which is contrary to public policy,

(g) an arbitrator having not been impartial and independent,

(h) an arbitrator having not treated the parties fairly,

(i) an arbitrator having been incapable of acting as an arbitrator in the arbitration (or there being justifiable doubts about an arbitrator's ability to so act),

(j) an arbitrator not having a qualification which the parties agreed (before the arbitrator's appointment) that the arbitrator must have, or

(k) any other irregularity in the conduct of the arbitration or in the award which is admitted by—

(i) the tribunal, or

(ii) any arbitral appointments referee or other third party to whom the parties give powers in relation to the arbitration.

(3) The Outer House may decide a serious irregularity appeal by—

(a) confirming the award,

(b) ordering the tribunal to reconsider the award (or part of it), or

(c) if it considers reconsideration inappropriate, setting aside the award (or part of it).

(4) Where the Outer House decides a serious irregularity appeal (otherwise than by confirming the award) on the ground—

(a) that the tribunal failed to conduct the arbitration in accordance with—

(i) the arbitration agreement,

(ii) these rules (in so far as they apply), or

(iii) any other agreement by the parties relating to conduct of the arbitration,

(b) that an arbitrator has not been impartial and independent, or

(c) that an arbitrator has not treated the parties fairly,

it may also make such order as it thinks fit about any arbitrator's entitlement (if any) to fees and expenses (and such an order may provide for the repayment of fees or expenses already paid to the arbitrator).

(5) An appeal may be made to the Inner House against the Outer House's decision on a serious irregularity appeal (but only with the leave of the Outer House).

(6) Leave may be given by the Outer House only where it considers—

(a) that the proposed appeal would raise an important point of principle or practice, or

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) that there is another compelling reason for the Inner House to consider the appeal.

(7) The Outer House's decision on whether to grant such leave is final.

(8) The Inner House's decision on such an appeal is final.

Commencement Information

I98 Sch. 1 rule 68 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 69 Challenging an award: legal error D

69 (1) A party may appeal to the Outer House against the tribunal's award on the ground that the tribunal erred on a point of Scots law (a “legal error appeal”).

(2) An agreement between the parties to disapply rule 51(2)(c) by dispensing with the tribunal's duty to state its reasons for its award is to be treated as an agreement to exclude the court's jurisdiction to consider a legal error appeal.

Commencement Information

I99 Sch. 1 rule 69 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 70 Legal error appeals: procedure etc. M

70 (1) This rule applies only where rule 69 applies.

(2) A legal error appeal may be made only—

(a) with the agreement of the parties, or

(b) with the leave of the Outer House.

(3) Leave to make a legal error appeal may be given only if the Outer House is satisfied—

(a) that deciding the point will substantially affect a party's rights,

(b) that the tribunal was asked to decide the point, and

(c) that, on the basis of the findings of fact in the award (including any facts which the tribunal treated as established for the purpose of deciding the point), the tribunal's decision on the point—

(i) was obviously wrong, or

(ii) where the court considers the point to be of general importance, is open to serious doubt.

(4) An application for leave is valid only if it—

(a) identifies the point of law concerned, and

(b) states why the applicant considers that leave should be granted.

(5) The Outer House must determine an application for leave without a hearing (unless satisfied that a hearing is required).

(6) The Outer House's determination of an application for leave is final.

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) Any leave to appeal expires 7 days after it is granted (and so any legal error appeal made after then is accordingly invalid unless made with the agreement of the parties).

(8) The Outer House may decide a legal error appeal by—
- (a) confirming the award,
- (b) ordering the tribunal to reconsider the award (or part of it), or
- (c) if it considers reconsideration inappropriate, setting aside the award (or part of it).

(9) An appeal may be made to the Inner House against the Outer House's decision on a legal error appeal (but only with the leave of the Outer House).

(10) Leave may be given by the Outer House only where it considers—
- (a) that the proposed appeal would raise an important point of principle or practice, or
- (b) that there is another compelling reason for the Inner House to consider the appeal.

(11) The Outer House's decision on whether to grant such leave is final.

(12) The Inner House's decision on such an appeal is final.

Commencement Information
I100 Sch. 1 rule 70 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 71 Challenging an award: supplementary M

71 (1) This rule applies to—
- (a) jurisdictional appeals,
- (b) serious irregularity appeals, and
- (c) where rule 69 applies to the arbitration, legal error appeals,

and references to "appeal" are to be construed accordingly.

(2) An appeal is competent only if the appellant has exhausted any available arbitral process of appeal or review (including any recourse available under rule 58).

(3) No appeal may be made against a provisional award.

(4) An appeal must be made no later than 28 days after the later of the following dates—
- (a) the date on which the award being appealed against is made,
- (b) if the award is subject to a process of correction under rule 58, the date on which the tribunal decides whether to correct the award, or
- (c) if there has been an arbitral process of appeal or review, the date on which the appellant was notified of the result of that process.

A legal error appeal is to be treated as having being made for the purposes of this rule if an application for leave is made.

(5) An application for leave to appeal against the Outer House's decision on an appeal must be made no later than 28 days after the date on which the decision is made (and any such leave expires 7 days after it is granted).

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(6) An appellant must give notice of an appeal to the other party and the tribunal.

(7) The tribunal may continue with the arbitration pending determination of an appeal against a part award.

(8) The Outer House (or the Inner House in the case of an appeal against the Outer House's decision) may—
  (a) order the tribunal to state its reasons for the award being appealed in sufficient detail to enable the Outer House (or Inner House) to deal with the appeal properly, and
  (b) make any other order it thinks fit with respect to any additional expenses arising from that order.

(9) Where the Outer House (or the Inner House in the case of an appeal against the Outer House's decision) decides an appeal by setting aside the award (or any part of it), it may also order that any provision in an arbitration agreement which prevents the bringing of legal proceedings in relation to the subject-matter of the award (or that part of it) is void.

(10) The Outer House (or the Inner House in the case of an appeal against the Outer House's decision) may—
  (a) order an appellant (or an applicant for leave to appeal) to provide security for the expenses of the appeal (or application), and
  (b) dismiss the appeal (or application) if the order is not complied with.

(11) But such an order may not be made only on the ground that the appellant (or applicant)—
  (a) is an individual who ordinarily resides outwith the United Kingdom, or
  (b) is a body which is—
    (i) incorporated or formed under the law of a country outwith the United Kingdom, or
    (ii) managed or controlled from outwith the United Kingdom.

(12) The Outer House (or the Inner House in the case of an appeal against the Outer House's decision) may—
  (a) order that any amount due under an award being appealed (or any associated provisional award) must be paid into court or otherwise secured pending its decision on the appeal (or the application for leave to appeal), and
  (b) dismiss the appeal (or application) if the order is not complied with.

(13) An appeal to the Inner House against any decision of the Outer House under this rule may be made only with the leave of the Outer House.

(14) An application for leave to appeal against such a decision must be made no later than 28 days after the date on which the decision is made (and any such leave expires 7 days after it is granted).

(15) Leave may be given by the Outer House only where it considers—
  (a) that the proposed appeal would raise an important point of principle or practice, or
  (b) that there is another compelling reason for the Inner House to consider the appeal.

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Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(16) The Outer House's decision on whether to grant such leave is final.

(17) A decision of the Inner House under this rule (including any decision on an appeal against a decision by the Outer House) is final.

Commencement Information
I101 Sch. 1 rule 71 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 72 Reconsideration by tribunal M

72 (1) Where the Outer House or, as the case may be, the Inner House decides a serious irregularity appeal or a legal error appeal by ordering the tribunal to reconsider its award (or any part of it), the tribunal must make a new award in respect of the matter concerned (or confirm its original award) by no later than—

(a) in the case of a decision by the Outer House—

(i) where the decision is appealed, the day falling 3 months after the appeal (or, as the case may be, the application for leave to appeal) is dismissed or abandoned,

(ii) where the decision is not appealed, the day falling 3 months after the decision is made, or

(iii) such other day as the Outer House may specify,

(b) in the case of a decision by the Inner House—

(i) the day falling 3 months after the decision is made, or

(ii) such other day as the Inner House may specify.

(2) These rules apply in relation to the new award as they apply in relation to the appealed award.

Commencement Information
I102 Sch. 1 rule 72 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

PART 9

MISCELLANEOUS

Rule 73 Immunity of tribunal etc. M

73 (1) Neither the tribunal nor any arbitrator is liable for anything done or omitted in the performance, or purported performance, of the tribunal's functions.

(2) This rule does not apply—

(a) if the act or omission is shown to have been in bad faith, or

(b) to any liability arising from an arbitrator's resignation (but see rule 16(1)(c)).

(3) This rule applies to any clerk, agent, employee or other person assisting the tribunal to perform its functions as it applies to the tribunal.

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Commencement Information

I103 Sch. 1 rule 73 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 74 Immunity of appointing arbitral institution etc. M

74 (1) An arbitral appointments referee, or other third party who the parties ask to appoint or nominate an arbitrator, is not liable—

(a) for anything done or omitted in the performance, or purported performance, of that function (unless the act or omission is shown to have been in bad faith), or

(b) for the acts or omissions of—

(i) any arbitrator whom it nominates or appoints, or

(ii) the tribunal of which such an arbitrator forms part (or any clerk, agent or employee of that tribunal).

(2) This rule applies to an arbitral appointments referee's, or other third party's, agents and employees as it applies to the referee or other third party.

Commencement Information

I104 Sch. 1 rule 74 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 75 Immunity of experts, witnesses and legal representatives M

75 Every person who participates in an arbitration as an expert, witness or legal representative has the same immunity in respect of acts or omissions as the person would have if the arbitration were civil proceedings.

Commencement Information

I105 Sch. 1 rule 75 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 76 Loss of right to object M

76 (1) A party who participates in an arbitration without making a timeous objection on the ground—

(a) that an arbitrator is ineligible to act as an arbitrator,

(b) that an arbitrator is not impartial and independent,

(c) that an arbitrator has not treated the parties fairly,

(d) that the tribunal does not have jurisdiction,

(e) that the arbitration has not been conducted in accordance with—

(i) the arbitration agreement,

(ii) these rules (in so far as they apply), or

(iii) any other agreement by the parties relating to conduct of the arbitration,

(f) that the arbitration has been affected by any other serious irregularity,

may not raise the objection later before the tribunal or the court.

Status: *Point in time view as at 27/10/2018.*
Changes to legislation: *Arbitration (Scotland) Act 2010 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) An objection is timeous if it is made—
- (a) as soon as reasonably practicable after the circumstances giving rise to the ground for objection first arose,
- (b) by such later date as may be allowed by—
  - (i) the arbitration agreement,
  - (ii) these rules (in so far as they apply),
  - (iii) the other party, or
- (c) where the tribunal considers that circumstances justify a later objection, by such later date as it may allow.

(3) This rule does not apply where the party shows that it did not object timeously because it—
- (a) did not know of the ground for objection, and
- (b) could not with reasonable diligence have discovered that ground.

(4) This rule does not allow a party to raise an objection which it is barred from raising for any reason other than failure to object timeously.

Commencement Information
I106 Sch. 1 rule 76 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 77 Independence of arbitrator M

77 For the purposes of these rules, an arbitrator is not independent in relation to an arbitration if—
- (a) the arbitrator's relationship with any party,
- (b) the arbitrator's financial or other commercial interests, or
- (c) anything else,

gives rise to justifiable doubts as to the arbitrator's impartiality.

Commencement Information
I107 Sch. 1 rule 77 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 78 Consideration where arbitrator judged not to be impartial and independent D

78 (1) This rule applies where—
- (a) an arbitrator is removed by the Outer House under rule 12 on the ground that the arbitrator is not impartial and independent,
- (b) the tribunal is dismissed by the Outer House under rule 13 on the ground that it has failed to comply with its duty to be impartial and independent, or
- (c) the tribunal's award (or any part of it) is returned to the tribunal for reconsideration, or is set aside, on either of those grounds (see rule 68).

(2) Where this rule applies, the Outer House must have particular regard to whether an arbitrator has complied with rule 8 when it is considering whether to make an order under rule 16(1) or 68(4) about—
- (a) the arbitrator's entitlement (if any) to fees or expenses,

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(b) repaying fees or expenses already paid to the arbitrator.

Commencement Information
I108 Sch. 1 rule 78 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 79 Death of arbitrator M

79 An arbitrator's authority is personal and ceases on death.

Commencement Information
I109 Sch. 1 rule 79 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 80 Death of party D

80 (1) An arbitration agreement is not discharged by the death of a party and may be enforced by or against the executor or other representative of that party.

(2) This rule does not affect the operation of any law by virtue of which a substantive right or obligation is extinguished by death.

Commencement Information
I110 Sch. 1 rule 80 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 81 Unfair treatment D

81 A tribunal (or arbitrator) who treats any party unfairly is, for the purposes of these rules, to be deemed not to have treated the parties fairly.

Commencement Information
I111 Sch. 1 rule 81 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 82 Rules applicable to umpires M

82 (1) The following rules apply in relation to an umpire appointed under rule 30 (or otherwise with the agreement of the parties) as they apply in relation to an arbitrator or, as the case may be, the tribunal—

rule 4
rule 8
rules 10 to 14
rule 24
rule 26
rules 59, 60 and 61(1)
rule 68
rule 73

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rules 76 to 79

(2) But the parties are, in so far as those rules are not mandatory rules, free to modify or disapply the way in which those rules would otherwise apply to an umpire.

Commencement Information

I112 Sch. 1 rule 82 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 83 Formal communications D

83 (1) A "formal communication" means any application, award, consent, direction, notice, objection, order, reference, request, requirement or waiver made or given or any document served—

(a) in pursuance of an arbitration agreement,

(b) for the purposes of these rules (in so far as they apply), or

(c) otherwise in relation to an arbitration.

(2) A formal communication must be in writing.

(3) A formal communication is made, given or served if it is—

(a) hand delivered to the person concerned,

(b) sent to the person concerned by first class post in a properly addressed envelope or package—

(i) in the case of an individual, to the individual's principal place of business or usual or last known abode,

(ii) in the case of a body corporate, to the body's registered or principal office, or

(iii) in either case, to any postal address designated for the purpose by the intended recipient (such designation to be made by giving notice to the person giving or serving the formal communication), or

(c) sent to the person concerned in some other way (including by email, fax or other electronic means) which the sender reasonably considers likely to cause it to be delivered on the same or next day.

(4) A formal communication which is sent by email, fax or other electronic means is to be treated as being in writing only if it is legible and capable of being used for subsequent reference.

(5) A formal communication is, unless the contrary is proved, to be treated as having been made, given or served—

(a) where hand delivered, on the day of delivery,

(b) where posted, on the day on which it would be delivered in the ordinary course of post, or

(c) where sent in any other way described above, on the day after it is sent.

(6) The tribunal may determine that a formal communication—

(a) is to be delivered in such other manner as it may direct, or

(b) need not be delivered,

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but it may do so only if satisfied that it is not reasonably practicable for the formal communication to be made, given or served in accordance with this rule (or, as the case may be, with any contrary agreement between the parties).

(7) This rule does not apply in relation to any application, order, notice, document or other thing which is made, given or served in or for the purposes of legal proceedings.

Commencement Information

I113 Sch. 1 rule 83 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

Rule 84 Periods of time D

84 Periods of time are to be calculated for the purposes of an arbitration as follows—

(a) where any act requires to be done within a specified period after or from a specified date or event, the period begins immediately after that date or, as the case may be, the date of that event, and

(b) where the period is a period of 7 days or less, the following days are to be ignored—

(i) Saturdays and Sundays, and

(ii) any public holidays in the place where the act concerned is to be done.

Commencement Information

I114 Sch. 1 rule 84 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, art. 2 (with arts. 3, 4)

INDEX

The words and other expressions listed in the following index are defined or otherwise explained for the purposes of these rules by the provisions indicated in the index.

Expression	*Interpretation provision*
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arbitration	section 2
arbitration agreement	section 4
arbitration expenses	rule 59
arbitrator	section 2
claim	section 31(1)
court	section 31(1)
default rule	section 9(1)
dispute	section 2
independent	rule 77
Inner House	section 31(1)

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mandatory rule	section 8
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Commencement Information
I115 Sch. 1 Index in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

Commencement Information
I115 Sch. 1 Index in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

SCHEDULE 2

(introduced by section 29)

REPEALS

Commencement Information
I116 Sch. 2 in force at 7.6.2010 for specified purposes by S.S.I. 2010/195, **art. 2** (with art. 3)

Enactment	***Extent of repeal***
Arbitration (Scotland) Act 1894 (c. 13)	The whole Act
Arbitration Act 1950 (c. 27)	The whole Act
Administration of Justice (Scotland) Act 1972 (c. 59)	Section 3
Arbitration Act 1975 (c. 3)	The whole Act
Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)	Section 17
Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)	Section 66 Schedule 7

Status:
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Changes to legislation:
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