

ARBITRATION (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Final provisions

Schedule 1 – Scottish Arbitration Rules

Part 2 – Jurisdiction of tribunal

Rule 20 – Objections to tribunal’s jurisdiction *Mandatory*

133. Rule 20 is a mandatory rule. If a party considers that the tribunal does not have jurisdiction, the party may object to the tribunal. Paragraph (2) requires an objection to be raised as soon as reasonably practicable after the matter is first raised in the arbitration, or such later time as the tribunal allows if it considers the circumstances justify it (before the tribunal makes its last award). The only recourse at that point is a court challenge to the award on grounds of lack of jurisdiction.
134. Under paragraph (3), if a tribunal upholds an objection, it has the general power to terminate an arbitration insofar as it does not have jurisdiction and to set aside any interim or partial award insofar as there is no jurisdiction. If a final award has been made the party should appeal under rule 67.
135. Paragraph (4) gives the tribunal the option of ruling on an objection to its jurisdiction in an award as to jurisdiction, or to delay and rule in the award on the merits of the dispute, unless the parties agree which course it should take. Where the tribunal does delay, any appeal will have to be made as a jurisdictional appeal against an award (under rule 67) rather than as an appeal against the decision on the objection to jurisdiction (rule 21).