

ARBITRATION (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Final provisions

Schedule 1 – Scottish Arbitration Rules

Part 8 – Challenging awards

Rule 67 – Challenging an award: substantive jurisdiction *Mandatory*

225. Rule 67 is a mandatory rule. Rule 67(1) provides that a party can apply to the court to challenge the arbitrator's jurisdiction and rule 67(2) gives the court powers in relation to the award made. There is other provision in the rules (rule 19) for the arbitrator to rule on his or her own jurisdiction, and an appeal under rule 67 is also subject to the limits on review in rule 71(2) and (4) (including the requirement to use any available arbitral process of review). It is however necessary to make provision for an appeal after the final award has been made since it may only be at that stage that it becomes apparent that the arbitrator has acted outwith his or her jurisdiction. Rule 67(3) provides that any variation in the award has effect as part of the tribunal's award.
226. Rule 67(4) provides that an appeal against the Outer House's decision on a jurisdictional appeal may be made to the Inner House but only with leave of the Outer House. Leave may be given only where there is an important point of principle or practice or another compelling reason for the Inner House to consider the appeal (rule 67(5)). The Outer House's decision on granting leave is final (rule 67(6)), as is the decision of the Inner House on a jurisdictional appeal (rule 67(7)).