

Changes to legislation: Arbitration (Scotland) Act 2010, Paragraph 68 is up to date with all changes known to be in force on or before 10 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) View outstanding changes

SCHEDULE 1 SCOTTISH ARBITRATION RULES

Modifications etc. (not altering text)

- C1 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](#))
- C1 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](#))
- C1 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](#))
- C1 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\(2\)](#))
- C1 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\(3\)](#))
- C1 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\(4\)](#))
- C1 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](#))
- C1 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\(2\)](#))
- C1 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\(3\)](#))
- C1 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](#))
- C1 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](#))
- C1 Sch. 1 excluded (17.8.2023) by [The Police Negotiating Board for Scotland \(Constitution, Arbitration and Qualifying Cases\) Regulations 2023 \(S.S.I. 2023/199\)](#), regs. 1(1), [3](#)

PART 8

CHALLENGING AWARDS

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,
 - (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,

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- (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
 - (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.

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Commencement Information

II 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)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) (temp.) by [2014 c. 1 s. 16\(4\)](#)
- Act power to amend conferred by [2014 c. 1 s. 16\(5\)](#)