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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**)

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.

(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,

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(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

I1 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

I2 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

I3 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—

(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,

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(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

I4 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

I5 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)

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

I6 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)

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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

I7 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

I8 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

I9 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—

(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.

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Commencement Information

I10 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

I11 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.

(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—

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(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

I12 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)

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