



Arbitration (Scotland) Act 2010

2010 asp 1

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 - (b) until it is superseded by a subsequent award.

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.

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).

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.

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.