



Arbitration (Scotland) Act 2010

2010 asp 1

Scottish Arbitration Rules

7 Scottish Arbitration Rules

The Scottish Arbitration Rules set out in schedule 1 are to govern every arbitration seated in Scotland (unless, in the case of a default rule, the parties otherwise agree).

8 Mandatory rules

The following rules, called “mandatory rules”, cannot be modified or disapplied (by an arbitration agreement, by any other agreement between the parties or by any other means) in relation to any arbitration seated in Scotland—

- rule 3 (arbitrator to be an individual)
- rule 4 (eligibility to act as an arbitrator)
- rule 7 (failure of appointment procedure)
- rule 8 (duty to disclose any conflict of interests)
- rules 12 to 16 (removal or resignation of arbitrator or dismissal of tribunal)
- rules 19 to 21 and 23 (jurisdiction of tribunal)
- rules 24 and 25 (general duties of tribunal and parties)
- rule 42 (point of law referral: procedure etc.)
- rule 44 (time limit variation: procedure etc.)
- rule 45 (securing attendance of witnesses and disclosure of evidence)
- rule 48 (power to award payment and damages)
- rule 50 (interest)
- rule 54 (part awards)
- rule 56 (power to withhold award if fees or expenses not paid)
- rule 60 (arbitrators' fees and expenses)
- rule 63 (ban on pre-dispute agreements about liability for arbitration expenses)
- rules 67, 68, 70, 71 and 72 (challenging awards)
- rules 73 to 75 (immunity)
- rule 76 (loss of right to object)
- rule 77 (independence of arbitrator)
- rule 79 (death of arbitrator)

rule 82 (rules applicable to umpires)

9 Default rules

- (1) The non-mandatory rules are called the “default rules”.
- (2) A default rule applies in relation to an arbitration seated in Scotland only in so far as the parties have not agreed to modify or disapply that rule (or any part of it) in relation to that arbitration.
- (3) Parties may so agree—
 - (a) in the arbitration agreement, or
 - (b) by any other means at any time before or after the arbitration begins.
- (4) Parties are to be treated as having agreed to modify or disapply a default rule—
 - (a) if or to the extent that the rule is inconsistent with or disapplied by—
 - (i) the arbitration agreement,
 - (ii) any arbitration rules or other document (for example, the UNCITRAL Model Law, the UNCITRAL Arbitration Rules or other institutional rules) which the parties agree are to govern the arbitration, or
 - (iii) anything done with the agreement of the parties, or
 - (b) if they choose a law other than Scots law as the applicable law in respect of the rule’s subject matter.

This subsection does not affect the generality of subsections (2) and (3).