

# ARBITRATION (SCOTLAND) ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Final provisions*

#### *Schedule 1 – Scottish Arbitration Rules*

#### **Part 8 – Challenging awards**

#### **Rule 68 – Challenging an award: serious irregularity *Mandatory***

227. Rule 68 is a mandatory rule. It sets out comprehensive grounds (in paragraph (2)) on which an award may be challenged for serious irregularity and gives the court powers in relation to the award made. The Act guards against vexatious or frivolous challenges which may be undertaken simply to delay the arbitral procedure or the enforcement of an award and so the challenge procedure is only available in cases of serious irregularity. An irregularity is to be regarded as being serious only if it gives rise to a substantial injustice. The responsibility of the court is to review the process on how the arbitrator came to a decision. It is also subject to the limits set out in rule 71.
228. Rule 68(5) provides that 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. 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 68(6)). The Outer House's decision on granting leave is final (rule 68(7)), as is the decision of the Inner House on a serious irregularity appeal (rule 68(8)).