

SCHEDULE 1 SCOTTISH ARBITRATION RULES

PART 2

JURISDICTION OF TRIBUNAL

Rule 19 Power of tribunal to rule on own jurisdiction M

- 19 The tribunal may rule on—
- (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, and
 - (c) what matters have been submitted to arbitration in accordance with the arbitration agreement.

Rule 20 Objections to tribunal's jurisdiction M

- 20 (1) Any party may object to the tribunal on the ground that the tribunal does not have, or has exceeded, its jurisdiction in relation to any matter.
- (2) An objection must be made—
- (a) before, or as soon as is reasonably practicable after, the matter to which the objection relates is first raised in the arbitration, or
 - (b) where the tribunal considers that circumstances justify a later objection, by such later time as it may allow,
- but, in any case, an objection may not be made after the tribunal makes its last award.
- (3) If the tribunal upholds an objection it must—
- (a) end the arbitration in so far as it relates to a matter over which the tribunal has ruled it does not have jurisdiction, and
 - (b) set aside any provisional or part award already made in so far as the award relates to such a matter.
- (4) The tribunal may—
- (a) rule on an objection independently from dealing with the subject-matter of the dispute, or
 - (b) delay ruling on an objection until it makes its award on the merits of the dispute (and include its ruling in that award),
- but, where the parties agree which of these courses the tribunal should take, the tribunal must proceed accordingly.

Rule 21 Appeal against tribunal's ruling on jurisdictional objection M

- 21 (1) A party may, no later than 14 days after the tribunal's decision on an objection under rule 20, appeal to the Outer House against the decision.
- (2) The tribunal may continue with the arbitration pending determination of the appeal.
- (3) The Outer House's decision on the appeal is final.

Status: This is the original version (as it was originally enacted).

Rule 22 Referral of point of jurisdiction *D*

22 The Outer House may, on an application by any party, determine any question as to the tribunal's jurisdiction.

Rule 23 Jurisdiction referral: procedure etc. *M*

- 23 (1) This rule applies only where an application is made under rule 22.
- (2) Such an application is valid only if—
- (a) the parties have agreed that it may be made, or
 - (b) the tribunal has consented to it being made and the court is satisfied—
 - (i) that determining the question is likely to produce substantial savings in expenses,
 - (ii) that the application was made without delay, and
 - (iii) that there is a good reason why the question should be determined by the court.
- (3) The tribunal may continue with the arbitration pending determination of an application.
- (4) The Outer House's determination of the question is final (as is any decision by the Outer House as to whether an application is valid).