

Changes to legislation: Arbitration (Scotland) Act 2010, Part 5 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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**)
- C1** Sch. 1 excluded (17.8.2023) by [The Police Negotiating Board for Scotland \(Constitution, Arbitration and Qualifying Cases\) Regulations 2023 \(S.S.I. 2023/199\)](#), regs. 1(1), **3**

PART 5

POWERS OF COURT IN RELATION TO ARBITRAL PROCEEDINGS

Rule 41 Referral of point of law D

- 41 The Outer House may, on an application by any party, determine any point of Scots law arising in the arbitration.

Commencement Information

- II** Sch. 1 rule 41 in force at 7.6.2010 for specified purposes by [S.S.I. 2010/195](#), art. 2 (with arts. 3, 4)

Rule 42 Point of law referral: procedure etc. M

- 42 (1) This rule applies only where an application is made under rule 41.
- (2) Such an application is valid only if—
- (a) the parties have agreed that it may be made, or

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- (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 the 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).

Commencement Information

I2 Sch. 1 rule 42 in force at 7.6.2010 for specified purposes by [S.S.I. 2010/195](#), art. 2 (with arts. 3, 4)

Rule 43 Variation of time limits set by parties D

- 43 The court may, on an application by the tribunal or any party, vary any time limit relating to the arbitration which is imposed—
- (a) in the arbitration agreement, or
 - (b) by virtue of any other agreement between the parties.

Commencement Information

I3 Sch. 1 rule 43 in force at 7.6.2010 for specified purposes by [S.S.I. 2010/195](#), art. 2 (with arts. 3, 4)

Rule 44 Time limit variation: procedure etc. M

- 44 (1) This rule applies only where an application for variation of time limit is made under rule 43.
- (2) Such a variation may be made only if the court is satisfied—
- (a) that no arbitral process for varying the time limit is available, and
 - (b) that someone would suffer a substantial injustice if no variation was made.
- (3) It is for the court to determine the extent of any variation.
- (4) The tribunal may continue with the arbitration pending determination of an application.
- (5) The court's decision on whether to make a variation (and, if so, on the extent of the variation) is final.

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I4 Sch. 1 rule 44 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 45 Court's power to order attendance of witnesses and disclosure of evidence M

- 45 (1) The court may, on an application by the tribunal or any party, order any person—
- (a) to attend a hearing for the purposes of giving evidence to the tribunal, or
 - (b) to disclose documents or other material evidence to the tribunal.
- (2) But the court may not order a person to give any evidence, or to disclose anything, which the person would be entitled to refuse to give or disclose in civil proceedings.
- (3) The tribunal may continue with the arbitration pending determination of an application.
- (4) The court's decision on whether to make an order is final.

Commencement Information

I5 Sch. 1 rule 45 in force at 7.6.2010 for specified purposes by [S.S.I. 2010/195](#), art. 2 (with arts. 3, 4)

Rule 46 Court's other powers in relation to arbitration D

- 46 (1) The court has the same power in an arbitration as it has in civil proceedings—
- (a) to appoint a person to safeguard the interests of any party lacking capacity,
 - (b) to order the sale of any property in dispute in the arbitration,
 - (c) to make an order securing any amount in dispute in the arbitration,
 - (d) to make an order under section 1 of the Administration of Justice (Scotland) Act 1972 (c. 59),
 - (e) to grant warrant for arrestment or inhibition,
 - (f) to grant interdict (or interim interdict), or
 - (g) to grant any other interim or permanent order.
- (2) But the court may take such action only—
- (a) on an application by any party, and
 - (b) if the arbitration has begun—
 - (i) with the consent of the tribunal, or
 - (ii) where the court is satisfied that the case is one of urgency.
- (3) The tribunal may continue with the arbitration pending determination of the application.
- (4) This rule applies—
- (a) to arbitrations which have begun,
 - (b) where the court is satisfied—
 - (i) that a dispute has arisen or might arise, and
 - (ii) that an arbitration agreement provides that such a dispute is to be resolved by arbitration.
- (5) This rule does not affect—
- (a) any other powers which the court has under any enactment or rule of law in relation to arbitrations, or
 - (b) the tribunal's powers.

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I6 Sch. 1 rule 46 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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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) (temp.) by [2014 c. 1 s. 16\(4\)](#)
- Act power to amend conferred by [2014 c. 1 s. 16\(5\)](#)