

Status: Point in time view as at 24/09/1991.

Changes to legislation: Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, Chapter 1 is up to date with all changes known to be in force on or before 22 September 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)

SCHEDULES

SCHEDULE 7

UNCITRAL

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1

SCOPE OF APPLICATION

- (1) This Law applies to international commercial arbitration, subject to any agreement in force between the United Kingdom and any other State or States which applies in Scotland.
- (2) The provisions of this Law, except articles 8, 9, 35 and 36, apply only if the place of arbitration is in Scotland.
- (3) An arbitration is international if:
 - (a) the parties to an arbitration agreement have, at the time of the conclusion of that agreement, their places of business in different States; or
 - (b) one of the following places is situated outside the State in which the parties have their places of business:
 - (i) the place of arbitration if determined in, or pursuant to, the arbitration agreement;
 - (ii) any place where a substantial part of the obligations of the commercial relationship is to be performed or the place with which the subject-matter of the dispute is most closely connected.
- (4) For the purposes of paragraph (3) of this article:
 - (a) if a party has more than one place of business, the place of business is that which has the closest relationship to the arbitration agreement;
 - (b) if a party does not have a place of business, reference is to be made to his habitual residence.
- (5) This Law shall not affect any other enactment or rule of law in force in Scotland by virtue of which certain disputes may not be submitted to arbitration or may be submitted to arbitration only according to provisions other than those of this Law.

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ARTICLE 2

DEFINITIONS AND RULES OF INTERPRETATION

For the purposes of this Law:

- (a) “arbitration” means any arbitration whether or not administered by a permanent arbitral institution;
- (b) “arbitral tribunal” means an arbitrator or a panel of arbitrators;
- (c) “arbitrator” includes an arbiter;
- (d) “commercial”, in relation to an arbitration, includes matters arising from all relationships of a commercial nature, whether contractual or not;
- (e) “country” includes Scotland;
- (f) “court” means a body or organ of the judicial system of a State;
- (g) “relationships of a commercial nature” include, but are not limited to, the following transactions, namely any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investment; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business co-operation; carriage of goods or passengers by air, sea, rail or road;
- (h) “State”, except in article 1(1), includes Scotland;
- (i) where a provision of this Law, except article 28, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorise a third party, including an institution, to make that determination;
- (j) where a provision of this Law refers to the fact that the parties have agreed or that they may agree or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to in that agreement;
- (k) where a provision of this Law, other than in articles 25(a) and 32(2)(a), refers to a claim, it also applies to a counter-claim, and where it refers to a defence, it also applies to a defence to such counter-claim;
- (l) article headings are for reference purposes only and are not to be used for purposes of interpretation.

ARTICLE 3

RECEIPT OF WRITTEN COMMUNICATIONS

- (1) Unless otherwise agreed by the parties:
 - (a) any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence or mailing address; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee’s last-known place of business, habitual residence or mailing address by registered letter or any other means which provides a record of the attempts to deliver it;
 - (b) the communication is deemed to have been received on the day it is so delivered.
- (2) The provisions of this article do not apply to communications in court proceedings.

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ARTICLE 4

WAIVER OF RIGHT TO OBJECT

A party who knows that any provision of this Law from which the parties may derogate or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating his objections to such non-compliance without undue delay or, if a time-limit is provided therefor, within such period of time, shall be deemed to have waived his right to object.

ARTICLE 5

EXTENT OF COURT INTERVENTION

In matters governed by this Law, no court shall intervene except where so provided in this Law.

ARTICLE 6

COURT FOR CERTAIN FUNCTIONS OF ARBITRATION ASSISTANCE, SUPERVISION AND ENFORCEMENT

The functions referred to in articles 11(3), 11(4), 13(3), 14, 16(3), 34(2), 35 and 36 shall be performed by:

- (a) the Court of Session; or
- (b) where it has jurisdiction, the sheriff court.

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