



# Arbitration (Scotland) Act 2010

## 2010 asp 1

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 18th November 2009 and received Royal Assent on 5th January 2010**

An Act of the Scottish Parliament to make provision about arbitration.

### Modifications etc. (not altering text)

- C1** Act applied (with modifications) (temp.) by 1990 c. 16, s. 15B(18) (as inserted (1.4.2015) by [Food \(Scotland\) Act 2015 \(asp 1\)](#), **ss. 33, 63(2)** (with s. 62); S.S.I. 2015/99, art. 2)
- C2** Act applied (with modifications) (temp.) by 2003 c. 21, Sch. 3A para. 107 (as inserted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), **Sch. 1** (with Sch. 2); S.I. 2017/1286, reg. 2(b))
- C3** Act applied (20.5.2018) by [The Motorcycles \(Type-Approval\) Regulations 2018 \(S.I. 2018/235\)](#), reg. 1(b), **Sch. 1 para. 13(2)(b)** (with reg. 1(c), Sch. 1 paras. 16, 17)
- C4** Act applied (20.5.2018) by [The Agricultural and Forestry Vehicles \(Type-Approval\) Regulations 2018 \(S.I. 2018/236\)](#), reg. 1(b), **Sch. 1 para. 13(2)(b)** (with reg. 1(c), Sch. 1 paras. 16, 17)
- C5** Act applied (21.9.2018) by [The Non-Road Mobile Machinery \(Type-Approval and Emission of Gaseous and Particulate Pollutants\) Regulations 2018 \(S.I. 2018/764\)](#), reg. 1(b), **Sch. 1 para. 13(2)(b)** (with reg. 1(c))
- C6** Act applied (27.10.2018) by [The Registered Social Landlords \(Repayment Charges\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/301\)](#), regs. 1(1), **6(3)**
- C7** Act applied (1.9.2020) by [The Road Vehicles \(Approval\) Regulations 2020 \(S.I. 2020/818\)](#), reg. 1(b), **Sch. 4 para. 13(2)(b)** (with Sch. 4 paras. 16, 17)

### Introductory

## 1 Founding principles

The founding principles of this Act are—

- (a) that the object of arbitration is to resolve disputes fairly, impartially and without unnecessary delay or expense,
- (b) that parties should be free to agree how to resolve disputes subject only to such safeguards as are necessary in the public interest,
- (c) that the court should not intervene in an arbitration except as provided by this Act.

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Anyone construing this Act must have regard to the founding principles when doing so.

#### Modifications etc. (not altering text)

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- C9** Ss. 1-15 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](#))
- C10** Ss. 1-15 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](#))
- C11** Ss. 1-15 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\(3\)](#))
- C12** Ss. 1-15 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](#))
- C13** Ss. 1-15 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\(3\)](#))
- C14** Ss. 1-15 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](#))
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- C17** Ss. 1-15 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\(2\)](#))
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#### Commencement Information

- I1** [S. 1](#) in force at 7.6.2010 for specified purposes by [S.S.I. 2010/195](#), [art. 2](#) (with [art. 3](#))

## 2 Key terms

(1) In this Act, unless the contrary intention appears—

“arbitration” includes—

- (a) domestic arbitration,
- (b) arbitration between parties residing, or carrying on business, anywhere in the United Kingdom, and
- (c) international arbitration,

“arbitrator” means a sole arbitrator or a member of a tribunal,

“dispute” includes—

- (a) any refusal to accept a claim, and
- (b) any other difference (whether contractual or not),

“party” means a party to an arbitration,

“rules” means the Scottish Arbitration Rules (see section 7), and

“tribunal” means a sole arbitrator or panel of arbitrators.

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- (2) References in this Act to “an arbitration”, “the arbitration” or “arbitrations” are references to a particular arbitration process or, as the case may be, to particular arbitration processes.
- (3) References in this Act to a tribunal conducting an arbitration are references to the tribunal doing anything in relation to the arbitration, including—
  - (a) making a decision about procedure or evidence, and
  - (b) making an award.

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### 3 Seat of arbitration

- (1) An arbitration is “seated in Scotland” if—
  - (a) Scotland is designated as the juridical seat of the arbitration—
    - (i) by the parties,
    - (ii) by any third party to whom the parties give power to so designate, or
    - (iii) where the parties fail to designate or so authorise a third party, by the tribunal, or
  - (b) in the absence of any such designation, the court determines that Scotland is to be the juridical seat of the arbitration.
- (2) The fact that an arbitration is seated in Scotland does not affect the substantive law to be used to decide the dispute.

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#### Commencement Information

- I2** [S. 3](#) in force at 7.6.2010 for specified purposes by [S.S.I. 2010/195](#), **art. 2** (with [art. 3](#))

### Arbitration agreements

#### 4 Arbitration agreement

An “arbitration agreement” is an agreement to submit a present or future dispute to arbitration (including any agreement which provides for arbitration in accordance with arbitration provisions contained in a separate document).

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- I3** [S. 4](#) in force at 7.6.2010 for specified purposes by [S.S.I. 2010/195](#), **art. 2** (with [art. 3](#))

## 5 Separability

- (1) An arbitration agreement which forms (or was intended to form) part only of an agreement is to be treated as a distinct agreement.
- (2) An arbitration agreement is not void, voidable or otherwise unenforceable only because the agreement of which it forms part is void, voidable or otherwise unenforceable.
- (3) A dispute about the validity of an agreement which includes an arbitration agreement may be arbitrated in accordance with that arbitration agreement.

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