

ARBITRATION (SCOTLAND) ACT 2010

EXPLANATORY NOTES

BACKGROUND

3. Arbitration is a legal procedure where parties submit a dispute between them to a third party, who often has specialist expertise or knowledge, who will act as a private tribunal to produce a final and binding decision on the dispute. Some statutory regimes refer matters to arbitration, but for other cases by agreeing to go to arbitration the parties voluntarily deny themselves recourse to the courts or other methods of dispute resolution. The agreement to go to arbitration may be contained in a contract concluded between the parties possibly years before they come into dispute, or agreed in a submission when the dispute arises.
4. The arbitrator's decision or "award" is final and binding without further court hearing of the issues. An award may be enforced like a court decree. Within countries which have ratified the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("the New York Convention") or the 1961 Geneva Convention (European Convention on International Commercial Arbitration), agreements to arbitrate and awards made in other countries will be recognised with no need – in the case of most awards – for further review of the issues.
5. Domestic Scots arbitration law derives primarily from case law and has not been codified into statute. The law is often not clear or readily accessible, nor does it reflect modern practice on arbitration. Section 66 of, and Schedule 7 to, the [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c.40\)](#) adopted the United Nations Commission on International Trade Law ("UNCITRAL") Model Law on arbitration into Scots law for international commercial arbitration, but not for non-commercial arbitration or domestic arbitration where the parties are domiciled in Scotland.