

ARBITRATION (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Recognition and enforcement of New York Convention awards

Section 20 – Refusal of recognition or enforcement

72. **Section 20(1)** allows the court to refuse to recognise or enforce under this procedure a New York Convention award only if the person against whom enforcement is sought can prove certain matters in accordance with this section. Subsections (2) to (4) prescribe the detailed circumstances in which recognition or enforcement of an award may be refused. If an award purports to decide matters which were not submitted to arbitration as well as those which were properly so submitted, the court is able to recognise or enforce those parts which were properly submitted so long as these can be separated from those which exceeded the jurisdiction of the arbitrator (subsection (5)).
73. Subsection (6) provides that where an award is challenged before the component authority of the country where the award was made or under whose law it was made, a court decision here as to its recognition and enforcement may be sisted (i.e. suspended) and the party against whom recognition or enforcement is claimed ordered to provide suitable security. Subsection (7) defines the “competent authority” for these purposes.