

# Arbitration (Scotland) Act 2010

## 2010 asp 1

### *Recognition and enforcement of New York Convention awards*

#### **18 New York Convention awards**

- (1) A “Convention award” is an award made in pursuance of a written arbitration agreement in the territory of a state (other than the United Kingdom) which is a party to the New York Convention.
- (2) An award is to be treated for the purposes of this section as having been made at the seat of the arbitration.
- (3) A declaration by Her Majesty by Order in Council that a state is a party to the Convention (or is a party in respect of any territory) is conclusive evidence of that fact.

#### **19 Recognition and enforcement of New York Convention awards**

- (1) A Convention award is to be recognised as binding on the persons as between whom it was made (and may accordingly be relied on by those persons in any legal proceedings in Scotland).
- (2) The court may order that a Convention award may be enforced as if it were an extract registered decree bearing a warrant for execution granted by the court.

#### **20 Refusal of recognition or enforcement**

- (1) Recognition or enforcement of a Convention award may be refused only in accordance with this section.
- (2) Recognition or enforcement of a Convention award may be refused if the person against whom it is invoked proves—
  - (a) that a party was under some incapacity under the law applicable to the party,
  - (b) that the arbitration agreement was invalid under the law which the parties agree should govern it (or, failing any indication of that law, under the law of the country where the award was made),
  - (c) that the person—
    - (i) was not given proper notice of the arbitral process or of the appointment of the tribunal, or

---

*Status: This is the original version (as it was originally enacted).*

---

- (ii) was otherwise unable to present the person's case,
  - (d) that the tribunal was constituted, or the arbitration was conducted, otherwise than in accordance with—
    - (i) the agreement of the parties, or
    - (ii) failing such agreement, the law of the country where the arbitration took place.
- (3) Recognition or enforcement of a Convention award may also be refused if the person against whom it is invoked proves that the award—
  - (a) deals with a dispute not contemplated by or not falling within the submission to arbitration,
  - (b) contains decisions on matters beyond the scope of that submission,
  - (c) is not yet binding on the person, or
  - (d) has been set aside or suspended by a competent authority.
- (4) Recognition or enforcement of a Convention award may also be refused if—
  - (a) the award relates to a matter which is not capable of being settled by arbitration, or
  - (b) to do so would be contrary to public policy.
- (5) A Convention award containing decisions on matters not submitted to arbitration may be recognised or enforced to the extent that it contains decisions on matters which were so submitted which are separable from decisions on matters not so submitted.
- (6) The court before which a Convention award is sought to be relied on may, if an application for the setting aside or suspension of the award is made to a competent authority—
  - (a) sist the decision on recognition or enforcement of the award,
  - (b) on the application of the party claiming recognition or enforcement, order the other party to give suitable security.
- (7) In this section “competent authority” means a person who has authority to set aside or suspend the Convention award concerned in the country in which (or under the law of which) the Convention award concerned was made.

## **21 Evidence to be produced when seeking recognition or enforcement**

- (1) A person seeking recognition or enforcement of a Convention award must produce—
  - (a) the duly authenticated original award (or a duly certified copy of it), and
  - (b) the original arbitration agreement (or a duly certified copy of it).
- (2) Such a person must also produce a translation of any award or agreement which is in a language other than English (certified by an official or sworn translator or by a diplomatic or consular agent).

## **22 Saving for other bases of recognition or enforcement**

Nothing in sections 19 to 21 affects any other right to rely on or enforce a Convention award in pursuance of any other enactment or rule of law.