

*These notes relate to the Arbitration (Scotland) Act 2010
(asp 1) which received Royal Assent on 5 January 2010*

ARBITRATION (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Final provisions

Schedule 1 – Scottish Arbitration Rules

Part 1 – Commencement and constitution of tribunal etc.

Rule 2 – Appointment of tribunal *Default*

106. Arbitration agreements only take effect when a dispute arises. If the parties have included provision in the arbitration agreement about the appointment of an arbitrator or arbitrators then those provisions will apply. If, however, no provision has been made in the arbitration agreement for the appointment of an arbitrator, if there are gaps in the provisions on appointment, or if the parties fail to carry out those provisions, then the Act provides default rules to allow for the appointment of an arbitrator to take the arbitration forward. This changes the common law position in Scots law and rule 2 makes clear how the structure of the appointment provisions in the rules apply. An arbitrator's appointment may take effect on the appointment being made or at such time as may be agreed between the parties.