Arbitration (Scotland) Act 2010

2010 asp 1

Final provisions

31 Interpretation

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

"arbitral appointments referee" means a person authorised under section 24,

"arbitration" has the meaning given by section 2,

"arbitration agreement" has the meaning given by section 4,

"arbitrator" has the meaning given by section 2,

"claim" includes counterclaim,

"Convention award" has the meaning given by section 18,

"court" means the Outer House or the sheriff (except in sections 1, 3, 10, 13 and 15, where it means any court),

"default rule" has the meaning given by section 9(1),

"dispute" has the meaning given by section 2,

"Inner House" means the Inner House of the Court of Session,

"mandatory rule" has the meaning given by section 8,

"Ministers" means the Scottish Ministers,

"New York Convention" means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations Conference on International Commercial Arbitration on 10 June 1958,

"Outer House" means the Outer House of the Court of Session,

"party" is to be construed in accordance with section 2 and subsection (2) below,

"rule" means one of the Scottish Arbitration Rules,

"Scottish Arbitration Rules" means the rules set out in schedule 1,

"seated in Scotland" has the meaning given by section 3,

"statutory arbitration" has the meaning given by section 16(1),

"tribunal" has the meaning given by section 2,

"UNCITRAL Arbitration Rules" means the arbitration rules adopted by UNCITRAL on 28 April 1976, and

"UNCITRAL Model Law" means the UNCITRAL Model Law on International Commercial Arbitration as adopted by the United Nations Commission on International Trade Law on 21 June 1985 (as amended in 2006).

Status: *Point in time view as at 05/01/2010. This version of this cross heading contains provisions that are not valid for this point in time.*
Changes to legislation: *Arbitration (Scotland) Act 2010, Cross Heading: Final provisions is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) This Act applies in relation to arbitrations and disputes between three or more parties as it applies in relation to arbitrations and disputes between two parties (with references to both parties being read in such cases as references to all the parties).

32 Ancillary provision

(1) Ministers may by order make any supplementary, incidental, consequential, transitional, transitory or saving provision which they consider appropriate for the purposes of, or in connection with, or for the purposes of giving full effect to, any provision of this Act.

(2) Such an order may modify any enactment, instrument or document.

33 Orders

(1) Any power of Ministers to make orders under this Act—
- (a) is exercisable by statutory instrument, and
- (b) includes power to make—
  - (i) any supplementary, incidental, consequential, transitional, transitory or saving provision which Ministers consider appropriate,
  - (ii) different provision for different purposes.

(2) A statutory instrument containing such an order (or an Order in Council made under section 18) is subject to annulment in pursuance of a resolution of the Scottish Parliament.

This subsection does not apply—
- (a) to orders made under section 35(2) (commencement orders), or
- (b) where subsection (3) makes contrary provision.

(3) An order—
- (a) under section 17 or 32 which adds to, replaces or omits any text in this or any other Act,
- (b) under section 26, or
- (c) under section 36(4),

may be made only if a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, the Scottish Parliament.

34 Crown application

(1) This Act binds the Crown.

(2) Her Majesty may be represented in any arbitration to which she is a party otherwise than in right of the Crown by such person as she may appoint in writing under the Royal Sign Manual.

(3) The Prince and Steward of Scotland may be represented in any arbitration to which he is a party by such person as he may appoint.

(4) References in this Act to a party to an arbitration are, where subsection (2) or (3) applies, to be read as references to the appointed representative.

Status: *Point in time view as at 05/01/2010. This version of this cross heading contains provisions that are not valid for this point in time.*
Changes to legislation: *Arbitration (Scotland) Act 2010, Cross Heading: Final provisions is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

35 Commencement

(1) The following provisions come into force on Royal Assent—

section 2
sections 31 to 34
this section
section 37

(2) Other provisions come into force on the day Ministers by order appoint.

VALID FROM 07/06/2010

36 Transitional provisions

(1) This Act does not apply to an arbitration begun before commencement.

(2) This Act otherwise applies to an arbitration agreement whether made on, before or after commencement.

(3) Despite subsection (2), this Act does not apply to an arbitration arising under an arbitration agreement (other than an enactment) made before commencement if the parties agree that this Act is not to apply to that arbitration.

(4) Ministers may by order specify any day falling at least 5 years after commencement as the day on which subsection (3) is to cease to have effect.

(5) Before making such an order, Ministers must consult such persons appearing to them to have an interest in the law of arbitration as they think fit.

(6) Any reference to an arbiter in an arbitration agreement made before commencement is to be treated as being a reference to an arbitrator.

(7) Any reference in an enactment to a decree arbitral is to be treated for the purposes of section 12 as being a reference to a tribunal's award.

(8) An express provision in an arbitration agreement made before commencement which disapplies section 3 of the Administration of Justice (Scotland) Act 1972 (c. 59) in relation to an arbitration arising under that agreement is, unless the parties otherwise agree, to be treated as being an agreement to disapply rules 41 and 69 in relation to such an arbitration.

(9) In this section, “commencement” means the day on which this section comes into force.

37 Short title

This Act is called the Arbitration (Scotland) Act 2010.

Status:
Point in time view as at 05/01/2010. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation:
Arbitration (Scotland) Act 2010, Cross Heading: Final provisions is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.