

ARBITRATION (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Introductory

Section 1 – Founding principles

18. **Section 1** sets out the founding principles of the Act. The purpose of the founding principles is to inform and steer the interpretation and application of the provisions of the Act. The principles reflect the principles found in the Arbitration Act 1996. The founding principles are not ranked; therefore there is no hierarchy of principles.
19. The first founding principle establishes fairness and impartiality as the standards by which disputes are to be resolved by arbitration. It is also part of this principle that resolution of the dispute is to be effected without unnecessary delay and without incurring unnecessary expense.
20. Although much of the code set out in the Scottish Arbitration Rules and in the Act is made up of rules which will only apply in the absence of agreement between the parties, the second founding principle reinforces the idea that parties are to be free to decide themselves on procedures for the resolution of their disputes, subject only to public interest safeguards.
21. The third principle is that the court should not intervene in the arbitration process except as provided by the Act. This principle will assist the courts to limit unnecessary intervention. The court should only intervene if it is necessary to support the arbitration process, for example to get the process back on track or by enforcing orders by the arbitrator.