

# ARBITRATION (SCOTLAND) ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Index*

259. The index highlights a number of expressions used in the rules and where they are explained.

#### *Schedule 2 – Repeals*

#### **Arbitration (Scotland) Act 1894, Arbitration Acts 1950 and 1975**

260. These repeals reflect the consolidation, replacement or re-enactment of equivalent provisions in the Arbitration (Scotland) Act. The 1950 and 1975 Act are repealed in so far as they form part of Scots law. The 1950 Act can be repealed because the international obligations under the Geneva Convention on the Execution of Foreign Arbitral Awards which it implements are superseded on the adoption by all relevant States of the New York Convention, which expressly supersedes the relevant provisions of the Geneva Convention.

#### **Administration of Justice (Scotland) Act 1972**

261. The ability to state a case on point of law at any stage of an arbitration under section 3 of the 1972 Act is repealed.

#### **Law Reform (Miscellaneous Provisions) (Scotland) Act 1980**

262. [Section 17](#) is repealed. It permits a Senator of the College of Justice (if he or she thinks fit and with the consent of the Lord President) to accept appointment as an arbitrator where the dispute appears to him or her to be of a commercial character. The provision regulates the appointment of judges as public officials. It is consolidated in section 23 of the Act.

#### **Law Reform (Miscellaneous Provisions) (Scotland) Act 1990**

263. The UNCITRAL (United Nations Commission on International Trade Law) Model Law provisions contained in section 66 of, and Schedule 7 to, the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 are repealed. Parties can still use their arbitration agreements to adopt the Model Law as the basis for their arbitration in preference to the default Scottish Arbitration Rules in the Act which should fill some gaps in the Model Law such as the lack of powers to award damages and interest. However that is subject to the mandatory Scottish Arbitration Rules in schedule 1 to the Act. Subject to those restrictions, parties can also adopt the adaptation of the Model Law in the 1990 Act even though it has been repealed.