

ARBITRATION (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Arbitration agreements

Section 4 – Arbitration agreement

25. The agreement to go to arbitration can be in a past agreement between the parties or in a submission to the arbitrator when the dispute arises. It can include arbitration clauses in separate agreements incorporated in the arbitration agreement.
26. Arbitration agreements are recognised by the Act whether they are concluded orally or in writing. Accordingly, all arbitrations in Scotland may in principle be subject to the Act. However, other specific laws may require arbitration agreements to be in writing, for instance the [Requirements of Writing \(Scotland\) Act 1995 \(c.7\)](#) in relation to heritable property. A written arbitration agreement may also be necessary for the resulting arbitral award to be enforceable, either in Scotland by summary diligence following registration for execution in the Books of Council and Session, or in foreign countries under the New York Convention.
27. As noted above, there are also other specific legal protections for consumers who might be inadvertently caught by low-value arbitration clauses.