

ARBITRATION (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Recognition and enforcement of New York Convention awards

Section 18 – New York Convention awards

66. Subsection (1) explains a “Convention award”. The awards recognised or enforced are arbitral awards made in the territory of a state which is a signatory to the New York Convention. The UK ratified the Convention on 24 September 1975. The [Arbitration Act 1975 \(c.50\)](#) provides for the enforcement of New York Convention awards in Scotland. Sections 18 to 22 are a consolidation of the relevant provisions of the 1975 Act.
67. Such agreements must be in writing (unlike arbitration agreements domestically which can be oral). The reference to “written” arbitration agreements will cover for instance telegrams or an exchange of letters as mentioned in the text of the New York Convention which this provision implements (according to the general interpretation rules which apply to Acts of the Scottish Parliament and subordinate legislation made under them – see the definition of “writing” in Schedule 2 to [S.S.I. 1999/1379](#)). By comparison, section 7(1) of the [Arbitration Act 1975 \(c.3\)](#) which this provision consolidates reflects the age of that Act.
68. There have in the past been difficulties where the seat of an arbitration has been held to be where the award was signed. Therefore, subsection (2) provides that such an award is treated as made at the seat of the arbitration regardless of where it was signed, despatched or delivered to any of the parties.
69. Under subsection (3), if the Queen by Order in Council which will be subject to negative resolution procedure in the Scottish Parliament declares a particular state is party to the New York Convention, so long as the relevant order is in force, this is to be conclusive evidence that the state in question is a party in respect of any territory for which it is responsible.