



# Arbitration (Scotland) Act 2010

## 2010 asp 1

### *Recognition and enforcement of New York Convention awards*

#### **20 Refusal of recognition or enforcement**

- (1) Recognition or enforcement of a Convention award may be refused only in accordance with this section.
- (2) Recognition or enforcement of a Convention award may be refused if the person against whom it is invoked proves—
  - (a) that a party was under some incapacity under the law applicable to the party,
  - (b) that the arbitration agreement was invalid under the law which the parties agree should govern it (or, failing any indication of that law, under the law of the country where the award was made),
  - (c) that the person—
    - (i) was not given proper notice of the arbitral process or of the appointment of the tribunal, or
    - (ii) was otherwise unable to present the person's case,
  - (d) that the tribunal was constituted, or the arbitration was conducted, otherwise than in accordance with—
    - (i) the agreement of the parties, or
    - (ii) failing such agreement, the law of the country where the arbitration took place.
- (3) Recognition or enforcement of a Convention award may also be refused if the person against whom it is invoked proves that the award—
  - (a) deals with a dispute not contemplated by or not falling within the submission to arbitration,
  - (b) contains decisions on matters beyond the scope of that submission,
  - (c) is not yet binding on the person, or
  - (d) has been set aside or suspended by a competent authority.
- (4) Recognition or enforcement of a Convention award may also be refused if—
  - (a) the award relates to a matter which is not capable of being settled by arbitration, or
  - (b) to do so would be contrary to public policy.

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*Status: This is the original version (as it was originally enacted).*

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- (5) A Convention award containing decisions on matters not submitted to arbitration may be recognised or enforced to the extent that it contains decisions on matters which were so submitted which are separable from decisions on matters not so submitted.
- (6) The court before which a Convention award is sought to be relied on may, if an application for the setting aside or suspension of the award is made to a competent authority—
  - (a) sist the decision on recognition or enforcement of the award,
  - (b) on the application of the party claiming recognition or enforcement, order the other party to give suitable security.
- (7) In this section “competent authority” means a person who has authority to set aside or suspend the Convention award concerned in the country in which (or under the law of which) the Convention award concerned was made.