



# Arbitration (Scotland) Act 2010

## 2010 asp 1

### *Supplementary*

#### **23 Prescription and limitation**

- (1) The Prescription and Limitation (Scotland) Act 1973 (c. 52) is amended as follows.
- (2) In section 4 (positive prescription: interruption)—
  - (a) in subsection (2)(b), after “Scotland” insert “in respect of which an arbitrator (or panel of arbitrators) has been appointed”,
  - (b) in subsection (3)(a), for the words from “and” to “served” substitute “, the date when the arbitration begins”,
  - (c) for subsection (4) substitute—

“(4) An arbitration begins for the purposes of this section—

    - (a) when the parties to the arbitration agree that it begins, or
    - (b) in the absence of such agreement, in accordance with rule 1 of the Scottish Arbitration Rules (see section 7 of, and schedule 1 to, the Arbitration (Scotland) Act 2010 (asp 1)).”.
- (3) In section 9 (negative prescription: interruption)—
  - (a) in subsection (3), for the words from “and” to “served” substitute “the date when the arbitration begins”,
  - (b) in subsection (4), for “preliminary notice” substitute “the date when the arbitration begins”.
- (4) After section 19C, insert—

#### **“19CA Interruption of limitation period: arbitration**

- (1) Any period during which an arbitration is ongoing in relation to a matter is to be disregarded in any computation of the period specified in section 17(2), 18(2), 18A(1) or 18B(2) of this Act in relation to that matter.
- (2) In this section, “arbitration” means—
  - (a) any arbitration in Scotland,

- (b) any arbitration in a country other than Scotland, being an arbitration an award in which would be enforceable in Scotland.”.
- (5) In section 22A(4), for the words from “and” to “served” substitute “the date when the arbitration begins (within the meaning of section 4(4) of this Act)”.
- (6) After section 22C, insert—

**“22CA Interruption of limitation period for 1987 Act actions: arbitration**

- (1) Any period during which an arbitration is ongoing in relation to a matter is to be disregarded in any computation of the period specified in section 22B(2) or 22C(2) of this Act in relation to that matter.
- (2) In this section, “arbitration” means—
  - (a) any arbitration in Scotland,
  - (b) any arbitration in a country other than Scotland, being an arbitration an award in which would be enforceable in Scotland.”.

**24 Arbitral appointments referee**

- (1) Ministers may, by order, authorise persons or types of person who may act as an arbitral appointments referee for the purposes of the Scottish Arbitration Rules.
- (2) Ministers must, when making such an order, have regard to the desirability of ensuring that arbitral appointments referees—
  - (a) have experience relevant to making arbitral appointments, and
  - (b) are able to provide training, and to operate disciplinary procedures, designed to ensure that arbitrators conduct themselves appropriately.
- (3) Despite subsection (2)(b), an arbitral appointments referee is not obliged to appoint arbitrators in respect of whom the referee provides training or operates disciplinary procedures.

**25 Power of judge to act as arbitrator or umpire**

- (1) A judge may act as an arbitrator or umpire only where—
  - (a) the dispute being arbitrated appears to the judge to be of commercial character, and
  - (b) the Lord President, having considered the state of Court of Session business, has authorised the judge to so act.
- (2) A fee of such amount as Ministers may by order prescribe is payable in the Court of Session for the services of a judge acting as an arbitrator or umpire.
- (3) Any jurisdiction exercisable by the Outer House under the Scottish Arbitration Rules (or any other provision of this Act) in relation to—
  - (a) a judge acting as a sole arbitrator or umpire, or
  - (b) a tribunal which the judge forms part of,
 is to be exercisable instead by the Inner House (and the Inner House’s decision on any matter is final).

(4) In this section—

“judge” means a judge of the Court of Session, and

“Lord President” means the Lord President of the Court of Session.

## **26 Amendments to UNCITRAL Model Law or Rules or New York Convention**

(1) Ministers may by order modify—

(a) the Scottish Arbitration Rules,

(b) any other provision of this Act, or

(c) any enactment which provides for disputes to be resolved by arbitration,

in such manner as they consider appropriate in consequence of any amendment made to the UNCITRAL Model Law, the UNCITRAL Arbitration Rules or the New York Convention.

(2) Before making such an order, Ministers must consult such persons appearing to them to have an interest in the law of arbitration as they think fit.

## **27 Amendment of Conveyancing (Scotland) Act 1924 (c. 27)**

In section 46 of the Conveyancing (Scotland) Act 1924—

(a) in subsection (2), for “This section” substitute “Subsection (1)”, and

(b) after subsection (2) insert—

“(3) Where—

(a) an arbitral award orders the reduction of a deed or other document recorded in the Register of Sasines (or forming a midcouple or link of title in a title recorded in that Register), and

(b) the court orders that the award may be enforced in accordance with section 12 of the Arbitration (Scotland) Act 2010 (asp 1), subsection (1) applies to the arbitral award as it applies to a decree of reduction of a deed recorded in the Register of Sasines.”.

## **28 Articles of Regulation 1695**

The 25th Act of the Articles of Regulation 1695 does not apply in relation to arbitration.

## **29 Repeals**

The repeals of the enactments specified in column 1 of schedule 2 have effect to the extent specified in column 2.

## **30 Arbitrability of disputes**

Nothing in this Act makes any dispute capable of being arbitrated if, because of its subject-matter, it would not otherwise be capable of being arbitrated.