

# ARBITRATION (SCOTLAND) ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Suspension of legal proceedings*

#### *Section 10 – Suspension of legal proceedings*

36. **Section 10(1)** provides that a court must suspend legal proceedings on the application of a party to those proceedings in relation to any matter under dispute, subject to certain conditions.
37. Paragraph (a) provides that the matter under dispute must be the subject of a valid agreement to arbitrate.
38. Paragraph (b) provides that an applicant must be a party to the arbitration agreement. The applicant may be a person claiming through or under the party to the arbitration agreement, for example with a contractual right assigned to someone else, or as part of a group of companies.
39. Paragraph (c) requires that the party seeking to suspend the legal proceedings has notified the parties to those proceedings.
40. Paragraph (d) provides that the applicant must not have taken any step under court procedures to answer the substantive claim or acted in a manner indicating a desire to have the dispute resolved by the court rather than arbitration.
41. Paragraph (e) provides that where the court is satisfied that the arbitration agreement is void, inoperative or incapable of being performed, it need not suspend the proceedings.
42. Subsection (2) provides that arbitration agreements are not effective to prevent parties bringing legal proceedings which the court refuses to suspend, but this does not apply to statutory arbitrations (see section 16(2)).
43. Subsection (3) applies the provisions to arbitrations seated outwith Scotland, in order that the Scottish courts have a duty to sist proceedings in relation to arbitrations seated in England and Wales or Northern Ireland or elsewhere.