



## Disputes under old contracts face resolution under new laws

Disputes between businesses could be settled more quickly when new laws on arbitration come into force next week, applying retrospectively to contracts already in place.

On June 7, The Arbitration (Scotland) Act, will become law, modernising and consolidating a mixture of old statutes and precedent going back as far as the seventeenth century.

The new rules will affect all disputes beginning from June 7, even if contracts were signed before this date, meaning that old arbitration clauses and procedures will automatically be replaced by the new practices.

According to law firm Dundas & Wilson, the new legislation could allow contractual disputes to be resolved more quickly and without having to go to court.

Lindy Patterson, head of construction and engineering at Dundas & Wilson, who has dealt with many contract disputes, said arbitration offered many benefits.

She said: "The new laws will make it much easier to use arbitration and having consolidated hundreds of years of various laws should make it quicker and cheaper.

"As they apply retrospectively, businesses should review the arbitration clauses already in place within contracts to make sure they will be easy to administer should the need arise."

Arbitration is an alternative to litigation as a means of resolving disputes. Rather than being heard in open court in front of a judge, parties present their arguments in private to an arbitrator, qualified in the appropriate discipline, whose decision is final and legally binding.

However, there are some points in the new Act of which companies should be aware: the law will apply retrospectively so any contracts in place with the old arbitration provisions will automatically move to the new regime unless parties agree to opt out. As these give far greater powers to arbitrators than previously, it is important to understand the consequences of this.

Lindy added: "Arbitration can be an extremely useful and cost-effective way to settle contractual disputes. Arbitration hasn't been widely used for a number of years, however this legislation does bring everything together and clarifies many of the difficulties with the previous regime.

"We might now see an increase in the number of companies who include arbitration in their contracts as a means to resolve disputes which might otherwise have ended up in court."

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Issued by The BIG Partnership on behalf of Dundas & Wilson. For more information contact:  
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#### Notes to editors:

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