

## SCHEDULES

### SCHEDULE 7

Section 61.

#### ARBITRATIONS

##### *APPOINTMENT OF ARBITERS*

- 1 A person agreed upon between the parties or, in default of agreement, appointed on the application in writing of either of the parties by the Secretary of State from among the members of the panel constituted under this Act for the purpose, shall be appointed arbiter.
- 2 If a person appointed arbiter dies, or is incapable of acting, or for 7 days after notice from either party requiring him to act fails to act, a new arbiter may be appointed as if no arbiter had been appointed.
- 3 Neither party shall have the power to revoke the appointment of the arbiter without the consent of the other party.
- 4 An appointment, notice, revocation and consent of a kind referred to in any of paragraphs 1 to 3 of this Schedule must be in writing.

##### *PARTICULARS OF CLAIM*

- 5 Each of the parties to the arbitration shall, within 28 days from the appointment of the arbiter, deliver to him a statement of that party's case with all necessary particulars; and—
- (a) no amendment or addition to the statement or particulars delivered shall be allowed after the expiration of the said 28 days except with the consent of the arbiter;
  - (b) a party to the arbitration shall be confined at the hearing to the matters alleged in the statement and particulars so delivered and any amendment thereof or addition thereto duly made.

##### *EVIDENCE*

- 6 The parties to the arbitration, and all persons claiming through them respectively, shall, subject to any legal objection—
- (a) submit to be examined by the arbiter on oath or affirmation in relation to the matters in dispute; and
  - (b) produce before the arbiter;
- all samples, books, deeds, papers, accounts, writings, and documents, within their possession or power respectively which may be required or called for, and do all other things which during the proceedings the arbiter may require.
- 7 The arbiter shall have power to administer oaths, and to take the affirmation of parties and witnesses appearing, and witnesses shall, if the arbiter thinks fit, be examined on oath or affirmation.

*AWARD*

- 8 The arbiter shall make and sign his award within 3 months of his appointment or within such longer period as may, either before or after the expiry of the aforesaid period be agreed to in writing by the parties, or be fixed by the Secretary of State.
- 9 The arbiter may, if he thinks fit, make an interim award for the payment of any sum on account of the sum to be finally awarded.
- 10 An arbiter appointed by the Secretary of State or the Land Court in an arbitration under section 13(1) of this Act shall, in making his award, state in writing his findings of fact and the reasons for his decision and shall make that statement available to the Secretary of State and to the parties.
- 11 The award and any statement made under paragraph 10 of this Schedule shall be in such form as may be specified by statutory instrument made by the Secretary of State.
- 12 The arbiter shall—
- (a) state separately in his award the amounts awarded in respect of the several claims referred to him; and
  - (b) on the application of either party, specify the amount awarded in respect of any particular improvement or any particular matter which is the subject of the award.
- 13 Where by virtue of this Act compensation under an agreement is to be substituted for compensation under this Act for improvements, the arbiter shall award compensation in accordance with the agreement instead of in accordance with this Act.
- 14 The award shall fix a day not later than one month after delivery of the award for the payment of the money awarded as compensation, expenses or otherwise.
- 15 Subject to section 61(2) of this Act, the award shall be final and binding on the parties and the persons claiming under them respectively.
- 16 The arbiter may correct in an award any clerical mistake or error arising from any accidental slip or omission.

*EXPENSES*

- 17 The expenses of and incidental to the arbitration and award shall be in the discretion of the arbiter, who may direct to and by whom and in what manner those expenses or any part thereof are to be paid, and the expenses shall be subject to taxation by the auditor of the sheriff court on the application of either party, but that taxation shall be subject to review by the sheriff.
- 18 The arbiter shall, in awarding expenses, take into consideration the reasonableness or unreasonableness of the claim of either party whether in respect of amount or otherwise, and any unreasonable demand for particulars or refusal to supply particulars, and generally all the circumstances of the case, and may disallow the expenses of any witness whom he considers to have been called unnecessarily and any other expenses which he considers to have been incurred unnecessarily.
- 19 It shall not be lawful to include in the expenses of and incidental to the arbitration and award, or to charge against any of the parties, any sum payable in respect of remuneration or expenses to any person appointed by the arbiter to act as clerk or otherwise to assist him in the arbitration unless such appointment was made after

submission of the claim and answers to the arbiter and with either the consent of the parties to the arbitration or the sanction of the sheriff.

*STATEMENT OF CASE*

- 20 Subject to paragraph 22 of this Schedule, the arbiter may at any stage of the proceedings, and shall, if so directed by the sheriff (which direction may be given on the application of either party), state a case for the opinion of the sheriff on any question of law arising in the course of the arbitration.
- 21 Subject to paragraph 22 of this Schedule, the opinion of the sheriff on any case stated under the last foregoing paragraph shall be final unless, within such time and in accordance with such conditions as may be specified by act of sederunt, either party appeals to the Court of Session, from whose decision no appeal shall lie.
- 22 Where the arbiter in any arbitration under section 13(1) of this Act has been appointed by the Secretary of State or by the Land Court, paragraphs 20 and 21 of this Schedule shall not apply, and instead the arbiter may at any stage of the proceedings state a case (whether at the request of either party or on his own initiative) on any question of law arising in the course of the arbitration, for the opinion of the Land Court, whose decision shall be final.

*REMOVAL OF ARBITER AND SETTING ASIDE OF AWARD*

- 23 Where an arbiter has misconducted himself the sheriff may remove him.
- 24 When an arbiter has misconducted himself, or an arbitration or award has been improperly procured, the sheriff may set the award aside.

*FORMS*

- 25 Any forms for proceedings in arbitrations under this Act which may be specified by statutory instrument made by the Secretary of State shall, if used, be sufficient.