

SCHEDULES

SCHEDULE 23

PARTY WALLS ETC

- 7 (1) This paragraph applies where a dispute arises or is deemed to have arisen in respect of a matter connected with any work to which the 1996 Act relates and the work—
- (a) is required for Phase 2a purposes, or
 - (b) relates to a building or structure situated on land held by the Secretary of State or the nominated undertaker for the purposes of the nominated undertaker's undertaking under this Act.
- (2) In such a case, the 1996 Act has effect as if for section 10 (resolution of disputes) there were substituted—

“10 Resolution of disputes

- (1) Where a dispute arises or is deemed to have arisen between a building owner and an adjoining owner in respect of any matter connected with any work to which this Act applies, the dispute is to be settled by a single arbitrator, who is to be—
 - (a) agreed on by both parties, or
 - (b) in default of agreement, appointed on the application of either party, after notice in writing to the other, by the President of the Institution of Civil Engineers.
- (2) If the arbitrator—
 - (a) refuses to act,
 - (b) neglects to act for a period of 10 days beginning with the day on which either party serves a request on the arbitrator,
 - (c) dies before the dispute is settled, or
 - (d) becomes or deems himself or herself incapable of acting,subsection (1) applies again.
- (3) The arbitrator must settle by award any matter—
 - (a) which is connected with any work to which this Act relates, and
 - (b) which is in dispute between the building owner and the adjoining owner.
- (4) An award may determine—
 - (a) the right to execute any work;
 - (b) the time and manner of executing any work; and
 - (c) any other matter arising out of or incidental to the dispute including the costs of making the award.
- (5) But, unless otherwise agreed between the building owner and the adjoining owner, any period appointed by the award for executing any work does not

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begin to run until after the end of the period prescribed by this Act for service of the notice in respect of which the dispute arises or is deemed to have arisen.

- (6) The reasonable costs incurred in—
 - (a) making or obtaining an award under this section,
 - (b) reasonable inspections of work to which the award relates, and
 - (c) any other matter arising out of the dispute,are to be paid by such of the parties as the arbitrator determines.
 - (7) Where the arbitrator makes an award, the arbitrator must serve it forthwith on the parties.
 - (8) The award is conclusive and must not except as provided by this section be questioned in any court.
 - (9) Either of the parties to the dispute may appeal to the county court against the award within the period of 14 days beginning with the day on which the award is served on the party making the appeal.
 - (10) On such an appeal, the county court may—
 - (a) rescind the award or modify it in such manner as the court thinks fit; and
 - (b) make such order as to costs as the court thinks fit.”
- (3) Where the 1996 Act has effect as mentioned in sub-paragraph (2)—
- (a) section 7(5) has effect as if the words “(or surveyors acting on their behalf)” were omitted,
 - (b) section 8(5) has effect as if the reference to a surveyor appointed or selected under section 10 were to an arbitrator agreed or appointed under section 10 (as modified by sub-paragraph (2)),
 - (c) section 8(6) has effect as if it provided for the arbitrator to give notice of its intention to enter land or premises, and
 - (d) section 12(3)(b) has effect as if the reference to the surveyor or surveyors were to the arbitrator.

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