
Changes to legislation: There are currently no known outstanding effects for the High Speed Rail (West Midlands - Crewe) Act 2021, SCHEDULE 29. (See end of Document for details)

SCHEDULES

SCHEDULE 29

Section 38

ARBITRATION BETWEEN RAILWAY OPERATORS

Directions as to results to be achieved

- 1 (1) This paragraph applies where a difference is referred under section 38(3) to arbitration.
- (2) The parties must notify the Secretary of State of the referral without delay after the commencement of the arbitral proceedings.
- (3) The Secretary of State may, on request or otherwise, direct the arbitrator as to results that are to be achieved by the agreement for which terms are to be determined by the arbitration.
- (4) A direction under this paragraph may be made even though the making of the direction affects the outcome of proceedings to which the Secretary of State, or a body in which the Secretary of State has an interest, is a party.
- (5) A request for a direction under this paragraph may be made by the arbitrator (as well as by a party).
- (6) For the purpose of determining whether or not the arbitrator has to comply with a direction under this paragraph, the rule is that the arbitrator must comply with the direction in determining terms of the agreement if the direction—
- (a) is relevant to the determination of those terms, and
 - (b) is given to the arbitrator before the award determining those terms is made.
- (7) For the purpose of determining what the arbitrator has to do to comply with a direction under this paragraph, the rule is that the arbitrator must carry out the function of determining terms of the agreement so as to secure, so far as is reasonably practicable, that the results concerned are achieved by the agreement.

Directions as to consolidation and grouping of proceedings

- 2 (1) The Secretary of State may, on request or otherwise, direct—
- (a) that a group of proceedings is to be consolidated, or
 - (b) that concurrent hearings are to be held in a group of proceedings.
- (2) In sub-paragraph (1) “group of proceedings” means a group consisting of—
- (a) section 38(3) proceedings, and
 - (b) any one or more of the following—
 - (i) other section 38(3) proceedings,
 - (ii) arbitral proceedings related to the proceedings mentioned in paragraph (a), and

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- (iii) arbitral proceedings related to section 38(3) proceedings that are to be consolidated with the proceedings mentioned in paragraph (a).
- (3) A request for a direction under this paragraph may be made by the arbitrator or any of the arbitrators (as well as by a party).
- (4) A direction under this paragraph must specify the terms on which the proceedings are to be consolidated or on which concurrent hearings are to be held.
- (5) Where a direction under this paragraph provides for the consolidation of proceedings that do not all have the same arbitrator, the terms that may be specified in the direction include (in particular)—
 - (a) terms specifying the person who is to be the arbitrator in the consolidated proceedings;
 - (b) terms under which that person is to be determined.
- (6) For the purposes of this paragraph—
 - (a) “section 38(3) proceedings” means proceedings on arbitration of a difference referred under section 38(3), and
 - (b) arbitral proceedings are “related” to section 38(3) proceedings if—
 - (i) the arbitral proceedings are not section 38(3) proceedings,
 - (ii) at least one of the parties to the arbitral proceedings is also a party to the section 38(3) proceedings, and
 - (iii) the Secretary of State considers that the subject-matter of the arbitral proceedings is connected with the subject-matter of the section 38(3) proceedings.

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