



Party Wall etc. Act 1996

1996 CHAPTER 40

Resolution of disputes

10 Resolution of disputes. **E+W**

- (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 relates either—
 - (a) both parties shall concur in the appointment of one surveyor (in this section referred to as an “agreed surveyor”); or
 - (b) each party shall appoint a surveyor and the two surveyors so appointed shall forthwith select a third surveyor (all of whom are in this section referred to as “the three surveyors”).
- (2) All appointments and selections made under this section shall be in writing and shall not be rescinded by either party.
- (3) If an agreed surveyor—
 - (a) refuses to act;
 - (b) neglects to act for a period of ten days beginning with the day on which either party serves a request on him;
 - (c) dies before the dispute is settled; or
 - (d) becomes or deems himself incapable of acting,the proceedings for settling such dispute shall begin *de novo*.
- (4) If either party to the dispute—
 - (a) refuses to appoint a surveyor under subsection (1)(b), or
 - (b) neglects to appoint a surveyor under subsection (1)(b) for a period of ten days beginning with the day on which the other party serves a request on him,the other party may make the appointment on his behalf.
- (5) If, before the dispute is settled, a surveyor appointed under paragraph (b) of subsection (1) by a party to the dispute dies, or becomes or deems himself incapable

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of acting, the party who appointed him may appoint another surveyor in his place with the same power and authority.

- (6) If a surveyor—
- (a) appointed under paragraph (b) of subsection (1) by a party to the dispute; or
 - (b) appointed under subsection (4) or (5),
- refuses to act effectively, the surveyor of the other party may proceed to act *ex parte* and anything so done by him shall be as effectual as if he had been an agreed surveyor.
- (7) If a surveyor—
- (a) appointed under paragraph (b) of subsection (1) by a party to the dispute; or
 - (b) appointed under subsection (4) or (5),
- neglects to act effectively for a period of ten days beginning with the day on which either party or the surveyor of the other party serves a request on him, the surveyor of the other party may proceed to act *ex parte* in respect of the subject matter of the request and anything so done by him shall be as effectual as if he had been an agreed surveyor.
- (8) If either surveyor appointed under subsection (1)(b) by a party to the dispute refuses to select a third surveyor under subsection (1) or (9), or neglects to do so for a period of ten days beginning with the day on which the other surveyor serves a request on him—
- (a) the appointing officer; or
 - (b) in cases where the relevant appointing officer or his employer is a party to the dispute, the Secretary of State,
- may on the application of either surveyor select a third surveyor who shall have the same power and authority as if he had been selected under subsection (1) or subsection (9).
- (9) If a third surveyor selected under subsection (1)(b)—
- (a) refuses to act;
 - (b) neglects to act for a period of ten days beginning with the day on which either party or the surveyor appointed by either party serves a request on him; or
 - (c) dies, or becomes or deems himself incapable of acting, before the dispute is settled,
- the other two of the three surveyors shall forthwith select another surveyor in his place with the same power and authority.
- (10) The agreed surveyor or as the case may be the three surveyors or any two of them shall 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.
- (11) Either of the parties or either of the surveyors appointed by the parties may call upon the third surveyor selected in pursuance of this section to determine the disputed matters and he shall make the necessary award.
- (12) 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;

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but any period appointed by the award for executing any work shall not unless otherwise agreed between the building owner and the adjoining owner begin to run until after the expiration 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.

- (13) 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,
- shall be paid by such of the parties as the surveyor or surveyors making the award determine.
- (14) Where the surveyors appointed by the parties make an award the surveyors shall serve it forthwith on the parties.
- (15) Where an award is made by the third surveyor—
- (a) he shall, after payment of the costs of the award, serve it forthwith on the parties or their appointed surveyors; and
 - (b) if it is served on their appointed surveyors, they shall serve it forthwith on the parties.
- (16) The award shall be conclusive and shall not except as provided by this section be questioned in any court.
- (17) Either of the parties to the dispute may, within the period of fourteen days beginning with the day on which an award made under this section is served on him, appeal to the county court against the award and 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.

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