



# Docks and Harbours Act 1966

## 1966 CHAPTER 28

### PART I

#### CONTROL OF EMPLOYMENT OF DOCK WORKERS

##### *Licensing of employers*

#### **1 Additional control of employment of dock workers**

- (1) No person shall engage any other person for employment, or employ any other person, as a dock worker in a port specified in Schedule 1 to this Act unless he holds a licence for the purpose and except in accordance with the terms of the licence:

Provided that the foregoing provision shall not apply—

- (a) to the engagement for employment, or the employment, of a person in any port by the licensing authority for the port; or
  - (b) to the employment of a person by the Board in pursuance of the provisions of any labour scheme.
- (2) A licensing authority shall not engage any person for employment, or employ any person, as a dock worker in a port so specified for which it is the licensing authority unless the authority has in accordance with the following provisions of this Part of this Act made a proposal to employ dock workers in that port and is entitled under those provisions to carry out the proposal.
- (3) No person shall work as a dock worker in a port so specified unless—
- (a) he does so in the employment of another person ; or
  - (b) at the time he does so, he employs some other person as a permanent worker in that port.
- (4) Any person who contravenes any of the foregoing provisions of this section shall be liable on summary conviction—
- (a) if an individual, to imprisonment for a term not exceeding three months or to a fine not exceeding £50 or both ;

- (b) if a body corporate, to a fine not exceeding £500.

## **2 Licensing authorities and their ports**

- (1) Subject to subsection (3) of this section, for the purposes of this Act the licensing authority having the function of issuing licences authorising the employment of dock workers in any port specified in Schedule 1 to this Act shall be the body specified in relation to that port in column 2 of that Schedule.
- (2) For the purposes of this Act the area of a port shall, subject to the provisions of any order made under paragraph (d) of the next following subsection, be taken to be the area of the port as designated for the purposes of any labour scheme for the time being applicable to the port.
- (3) The Minister may by order—
  - (a) substitute for any body specified in relation to any port in Schedule 1 to this Act any other body specified in the order;
  - (b) add to that Schedule a port to which a labour scheme for the time being applies, specifying the body which is to be the licensing authority therefor ;
  - (c) remove a port from that Schedule ;
  - (d) vary the limits of a port specified in that Schedule.

## **3 Applications for licences**

- (1) An application for a licence shall be made in the prescribed manner and shall be accompanied by the prescribed particulars.
- (2) Any such application made before the commencement of section 1 of this Act shall be made within the prescribed time, and any such application made after that time shall not be entertained until after the commencement of that section and shall be treated for the purposes of this Part of this Act as having been made after the commencement of that section.
- (3) An applicant for a licence shall give the licensing authority such information in addition to the prescribed particulars as the licensing authority may reasonably require for enabling the authority to come to a decision on the application.
- (4) The particulars which may be prescribed by regulations made for the purposes of this section may be particulars which are to accompany all applications for a licence or applications of a prescribed class, and any such regulations may prescribe different times for the purposes of subsection (2) of this section for different ports.

## **4 Consideration of applications for licences, etc.**

- (1) The licensing authority shall consider every application for a licence made to the authority and shall make a decision on every such application in accordance with the following provisions of this section and the provisions of the next following section.
- (2) Where it appears to the Minister that a licensing authority has failed to deal with any application for a licence within a reasonable time, he may by notice given to the licensing authority direct that that application and, if that application is made before the commencement of section 1 of this Act, all the other applications for a licence so

made for the port in question, be referred to him instead of being dealt with by the licensing authority; and—

- (a) any decisions taken or other things done by a licensing authority in relation to those applications shall be of no effect; and
  - (b) the Minister shall have the like powers and duties in relation to all applications so made for the port in question as he has in relation to appeals from decisions on applications for licences and the like consequences shall ensue as in the case of such appeals.
- (3) In deciding whether or not to grant a licence to an applicant and in deciding the conditions on which a licence is to be granted to him the licensing authority shall have regard to any material considerations and in particular to the following considerations:
- (a) whether the applicant efficiently manages or is likely so to manage his business or undertaking so far as it relates to the employment of dock workers and, in particular, whether he makes or is likely to make efficient use of the services of the dock workers employed by him and whether he provides or is likely to provide all necessary and proper equipment for use in connection with their work;
  - (b) in the case of an application made before the commencement of section 1 of this Act, whether the applicant is willing and able to employ as permanent workers, in accordance with the provisions of any labour scheme for the time being applicable to the port to which the licence will relate, such a proportion of the registered dock workers in that port (other than supplementary workers and unavailable workers) as is proper and reasonable having regard to the authority's obligation under section 5(4) of this Act to secure that all dock workers (other than as aforesaid) in the port are employed there as permanent workers and to the extent (if any) to which the applicant has as a registered employer employed registered dock workers (other than supplementary workers) and to his future capacity to employ dock workers ;
  - (c) whether the applicant is willing and able—
    - (i) to give employment as a permanent worker to every dock worker (other than a supplementary worker) employed by him and to employ every such worker at the rates of remuneration and on the conditions of service for the time being applicable in the port in question under any national or local agreement; and
    - (ii) except where the licensing authority is satisfied that it is the normal practice in the port to which the licence will relate to transfer to a substantial extent dock workers employed there to work temporarily in another port, to give such employment for such a proportion of the working time of every worker (other than supplementary workers) employed by the applicant that no such worker is likely to be made available in any period of twelve months for temporary transfer to work for another employer for more than one-fifth of that time in that period ;
  - (d) the desirability of securing that the number of employers of dock workers (including the licensing authority) in the port to which the licence will relate is brought or kept within a limit which in the opinion of the licensing authority is the maximum number which is compatible with the efficient working of the port having regard to all the circumstances, including—

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- (i) the need for any special provision for the efficient handling of particular descriptions of cargo and for the efficient performance of particular descriptions of cargo handling operations ;
  - (ii) the need for the provision of services ancillary to the handling of cargoes ;
  - (iii) the possibility of special difficulties being caused to an applicant if he is not allowed to engage in the handling of cargoes for use for the purposes of a business or undertaking carried on by him.
- (4) The Minister may by regulations—
- (a) prescribe other considerations in addition to those specified in the last foregoing subsection as considerations to which the licensing authority is to have regard in deciding whether to grant a licence ; and
  - (b) modify any considerations specified in the last foregoing subsection.
- (5) No regulations shall be made under the last foregoing subsection unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House of Parliament.

## 5 Conditions and duration of licences

- (1) Without prejudice to subsection (4) of this section, but subject to section 10(2) of this Act, a licence for any port may be granted subject to conditions—
- (a) specifying the number of dock workers (other than supplementary workers) who are to be employed by the applicant as permanent workers in that port on the relevant date;
  - (b) restricting the employment of dock workers by the applicant to a specified berth or a specified part of that port;
  - (c) restricting the operations in which the applicant may engage to—
    - (i) the handling of cargoes of a specified description ;
    - (ii) cargo handling operations of a specified description;
    - (iii) the provision of ancillary services of a specified description; or
    - (iv) without prejudice to the foregoing provisions of this paragraph, the handling of cargoes for use for the purposes of a business or undertaking carried on by the applicant.
- (2) The Minister may by regulations—
- (a) prescribe conditions in substitution for or in addition to those specified in the foregoing subsection as conditions subject to which licences may be granted;
  - (b) vary any description of condition so specified or prescribed; or
  - (c) prohibit the inclusion in a licence of any description of condition so specified or prescribed.
- (3) Where regulations under the last foregoing subsection prohibit the inclusion of any description of condition in a licence, any condition of that description subject to which any licence has been granted shall cease to have effect on the coming into force of the regulations.
- (4) It shall be the duty of the licensing authority, on granting licences for any port on applications made before the commencement of section 1 of this Act, to grant them subject to conditions which will secure that all dock workers in that port (other than supplementary workers and unavailable workers) will not later than the

commencement of that section be employed as permanent workers by one or more of the employers to whom the licences are to be granted or by the licensing authority.

- (5) A licence shall be granted for a period specified in the licence, being not less than three years nor more than seven years from the date of the coming into force of the licence.
- (6) In this section " the relevant date", in relation to a licence, means—
  - (a) in the case of a licence issued before the commencement of section 1 of this Act, the commencement of that section; and
  - (b) in any other case, a date specified in the licence, not being more than three months from the coming into force of the licence.
- (7) Before deciding whether to grant or refuse a licence or deciding the conditions to be included in a licence the licensing authority shall consult with the Board.

## **6 Notification of decisions and proposals**

- (1) The licensing authority shall, on making a decision on an application for a licence to the authority, give notice in writing of the decision to the applicant, the Council and the Board and, in the case of an application made before the commencement of section 1 of this Act, to all other persons by whom applications have been so made for licences for the port in question, stating—
  - (a) in the case of a decision to grant a licence, any conditions subject to which and the period for which the licence is to be granted ;
  - (b) in the case of a decision to refuse a licence, the reasons for the refusal.
- (2) The licensing authority for any port shall so far as practicable secure that all the notices required by the foregoing subsection to be given on decisions on applications made before the commencement of section 1 of this Act for licences for that port are given on the same day.
- (3) If the licensing authority for any port proposes before the commencement of section 1 of this Act to employ dock workers in that port on the commencement of that section or proposes after the commencement of that section to employ dock workers there, not having previously employed them there, the authority shall give notice in writing of the proposal in any event to the Council and the Board, in the case of a proposal made before the commencement of section 1 of this Act to all persons by whom applications for a licence for the port have been made before the commencement of that section and in the case of a proposal made after the commencement of that section to every holder of a licence for the port and any person who has made an application for such a licence which has not been disposed of, stating—
  - (a) the number of dock workers (other than supplementary workers) it proposes to employ as permanent workers there on the relevant date; and
  - (b) whether or not it proposes to employ dock workers only at a particular berth or in a particular part of the port and, if it so proposes, the berth or part of the port where it proposes to employ them.
- (4) Where a proposal is made before the commencement of section 1 of this Act for any port and any application has been made for a licence for that port before the commencement of that section, the notice of the proposal required to be given to any person under the last foregoing subsection shall be combined with the notice of the licensing authority's decision on that application required to be given to that person under subsection (1) of this section; and where no proposal has been so made, but an

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application has been so made for any port, the notice under the said subsection (1) shall state that the authority does not propose to employ dock workers in that port.

- (5) If after the commencement of section 1 of this Act the licensing authority for any port which is entitled to employ permanent workers only at a particular berth or in a particular part of the port proposes to employ permanent workers at a berth or in a part of the port where it was not previously entitled to employ them, the authority shall give notice in writing of the proposal to the persons specified in subsection (3) of this section specifying the berth or part of the port.
- (6) In this section "the relevant date" in relation to a proposal means—
  - (a) in the case of a proposal made before the commencement of section 1 of this Act, the commencement of that section; and
  - (b) in any other case, a date specified in the proposal, being not earlier than twenty-eight days nor later than three months from the giving of notice of the proposal.

## **7 Appeals and objections**

- (1) Any applicant for a licence who is aggrieved by a decision of the licensing authority on his application, or an applicant for or holder of a licence who is aggrieved by a proposal of the licensing authority with respect to the employment of dock workers, may within twenty-eight days of the giving of notice of the decision or proposal under the last foregoing section appeal in the prescribed manner, giving the prescribed particulars, to the Minister.
- (2) On an appeal being made to the Minister under the foregoing subsection the Minister shall give notice of the appeal and of the grounds thereof to the licensing authority and the Council.
- (3) The Council may within twenty-eight days of the giving of notice of a decision or proposal under the last foregoing section make an objection in writing to the Minister to the decision or proposal stating the grounds thereof, being an objection to the decision or proposal, generally or to particular matters stated in the notice, and shall give a copy of the objection to the licensing authority.
- (4) In the case of decisions on applications for licences made before the commencement of section 1 of this Act the Council may, within twenty-eight days of the giving of notice of the last of the decisions for any port, make a general objection in writing to the Minister to the decisions for that port on the ground that in the opinion of the Council the number of licences which the licensing authority proposes to grant for the port exceeds the maximum number which is compatible with the efficient working of the port having regard to all the circumstances, stating the reasons for its opinion, and shall give a copy of the objection to the licensing authority; and an objection under this subsection shall be treated for the purposes of the following provisions of this Part of this Act as an objection to all the decisions to grant licences for that port.
- (5) The Council may within twenty-eight days of the giving of notice to it of an appeal under subsection (1) of this section make representations with respect to the appeal to the Minister and shall give a copy of the representations to the licensing authority.
- (6) The Minister may in any particular case extend the time for giving notice of appeal or making an objection or representations under the foregoing provisions of this section and, where he does so, shall give notice of the extension to the licensing authority.

- (7) Where the licensing authority receives notice of an appeal against a decision on an application or proposal made before the commencement of section 1 of this Act or a copy of an objection to a decision or proposal so made or of representations made with respect to any such appeal, the authority shall give copies of the notice of appeal, objection or representations to all applicants for a licence in the port in question, but need not give a copy of the notice to the appellant who gave the notice.
- (8) Where the licensing authority receives notice of an appeal against a proposal made after the\* commencement of section 1 of this Act, or a copy of an objection to a proposal so made or of representations with respect to such an appeal, the authority shall give copies of the notice of appeal, objection or representations to all persons then holding licences for the port in question and any applicants for licences whose applications are then awaiting disposal, but need not give a copy of the notice to the appellant who gave the notice.
- (9) Where the licensing authority receives a copy of an objection to a decision on an application made after the commencement of section 1 of this Act or of representations with respect to an appeal against such a decision, it shall give a copy of the objection or representations to the applicant.
- (10) Where an appeal is brought under this section against, or an objection is made thereunder to, a decision of the licensing authority on an application for a licence or a proposal of the licensing authority with respect to the employment of dock workers, the authority shall if so required by the Minister give the Minister a copy of the notice given under the last foregoing section to the applicant and—
  - (a) in the case of an appeal against or objection to a decision or proposal made at any time, such information in the possession of the authority relating to the application or proposal as the Minister may require ; and
  - (b) in the case of an appeal against or objection to a decision or proposal made before the commencement of section 1 of this Act, copies of the notices given to the other applicants for licences in the port in question, together with such information in the possession of the authority relating to their applications as the Minister may require.
- (11) If after receiving a notice under the last foregoing section of any decision on an application or proposal the Council by notice in writing so requests a licensing authority, the authority shall give the Council a copy of the application or proposal, together with such information in the possession of the authority relating to the application or proposal as the Council may require.
- (12) Where the Minister gives a notice under section 4(2) of this Act directing that any application be referred to him, he shall give a copy of the notice to the Council; and—
  - (a) the Council may, within twenty-eight days of the giving of the said copy to it, make representations to the Minister with respect to—
    - (i) any application to which the notice relates;
    - (ii) where the notice was given before the commencement of section 1 of this Act, any proposal made by the licensing authority for the port in question; and
    - (iii) whenever the notice was given, the maximum number of licences which the Council considers should be granted for the port in question;and shall give a copy of the representations to the licensing authority;

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- (b) subsection (6) of this section shall apply in relation to any representations under the foregoing paragraph as it applies in relation to representations under subsection (5) of this section;
- (c) the Minister shall give copies of any notice under section 4(2) of this Act and any representations under paragraph (a) of this subsection to all applicants whose applications are referred to the Minister; and
- (d) if after receiving a copy of a notice under section 4(2) of this Act relating to any application the Council by notice in writing so requests a licensing authority, the authority shall give the Council a copy of the application and, in the case of a notice given before the commencement of section 1 of this Act, of any proposal of the authority made in relation to the port in question, with such information in the possession of the authority relating to the application or proposal as the Council may require.

## **8 Determination of appeals and objections**

- (1) Where an appeal is brought under the last foregoing section against, or an objection is made thereunder to, the decision of a licensing authority on an application for a licence, the Minister shall consider the matter and, after consultation with the Minister of Labour, give such decision in the matter as he thinks fit.
- (2) For the purpose of disposing of any such appeal or objection the Minister—
  - (a) shall have the like powers and duties in relation to the appeal or objection as the licensing authority had in relation to the application which gave rise to the decision appealed from or objected to (except the duty under section 5(7) of this Act to consult the Board); and
  - (b) where the appeal is brought against, or the objection is made to, a decision on an application in relation to any port made before the commencement of section 1 of this Act, may direct that all applications so made in relation to that port be referred to him and may reconsider any decision on those applications and any proposal so made in relation to that port by the licensing authority, and shall accordingly have the like powers and duties in relation to those applications as the licensing authority had (except the said duty).
- (3) Where an appeal is brought against, or an objection made to, any proposal of a licensing authority for any port under section 6(3) of this Act, the Minister shall, after consultation with the Minister of Labour, decide whether or not the authority should employ dock workers in that port and, if so—
  - (a) the number of permanent workers which it should employ there;
  - (b) the date by which it should employ them (which, in the case of a proposal made before the commencement of section 1 of this Act, shall be the commencement of that section); and
  - (c) whether or not it should employ dock workers only at a particular berth or in a particular part of the port and, if the Minister decides that it should, the berth or part of the port where it should employ them.
- (4) For the purpose of disposing of any appeal against, or objection to, any such proposal made before the commencement of section 1 of this Act, the Minister may direct that all applications so made in relation to the port in question be referred to him and may reconsider any decision on those applications, and shall accordingly have the like powers and duties in relation to those applications as the licensing authority had (except the duty under section 5(7) of this Act to consult the Board).



- (5) Where an appeal is brought against, or an objection made to, any proposal of a licensing authority for any port to employ dock workers at a berth or in a part of the port where it was not previously entitled to employ them, the Minister shall decide whether or not the authority should employ them there.
- (6) Where the Minister makes a decision under this section on an appeal or objection, he shall give notice in writing of the decision and the reasons therefor—
  - (a) in the case of a decision relating to an appeal on an application made before the commencement of section 1 of this Act, or on a proposal so made by a licensing authority, to all the applicants for a licence for the port in question;
  - (b) in the case of a decision relating to any subsequent application for a licence, to the applicant; and
  - (c) in every case to the licensing authority, the Council and the Board.
- (7) A licensing authority who is notified of a decision of the Minister under this section on a proposal of the licensing authority made after the commencement of section 1 of this Act shall give notice in writing of the decision to every holder of a licence for the port and any person who has made an application for such a licence which has not been disposed of.

## **9 Implementation of decisions**

- (1) A licence shall, subject to the next following subsection, be issued before, and shall come into force on, a date specified in the licence which, in the case of a licence for which application is made before the commencement of section 1 of this Act, shall be the commencement of that section.
- (2) No licence shall be issued until the expiration of the time limited by section 7 of this Act for appealing against or objecting to the decision on the application for the licence, or where an appeal is brought against or an objection is made to that decision, until the appeal or objection and, in the case of a licence for which application is made before the commencement of section 1 of this Act, any appeals against or objections to decisions on other applications so made in the port in question and any proposal of the licensing authority with respect to the employment of dock workers there have been finally disposed of.
- (3) On issuing a licence, the licensing authority shall send a copy of the licence to the Council and the Board.
- (4) If an appeal is brought against or an objection made to a proposal made after the commencement of section 1 of this Act, the proposal shall not have effect until the appeal or objection is disposed of and, whether or not the Minister decides the appeal or objection, he may substitute another date for the relevant date specified in the proposal.
- (5) It shall be the duty of the licensing authority to do all things necessary for the purpose of giving effect to any decision of the Minister under the last foregoing section on any appeal or objection and, in particular, forthwith after receiving notice of the decision to issue licences to applicants to whom it has been decided to grant them.

## **10 Renewal of licences**

- (1) An application for the renewal of a licence may be made during the two years or such other period as may be prescribed preceding the expiration of the licence.

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- (2) The foregoing provisions of this Act, other than section 5(1)(a) thereof, shall apply in relation to such an application as they apply in relation to an application for a licence made after the commencement of section 1 of this Act.
- (3) When an application is made for the renewal of a licence, the licence sought to be renewed shall, notwithstanding the expiration of the period for which it was granted, continue in force—
  - (a) where the licensing authority renews the licence without alteration, until the date when the renewal takes effect;
  - (b) where the licensing authority decides to alter the conditions of the licence, until the expiration of the period of three months from the time limited for appealing against or objecting to the decision or, where an appeal is brought against or an objection is made to the decision, from the disposal of the appeal or objection;
  - (c) where the licensing authority decides not to grant the licence, until the expiration of the period of six months from the time so limited or, where an appeal is brought against or an objection is made to a decision, from the disposal of the appeal or objection.

## **11 Variation and revocation of conditions of licences and revocation of licences**

- (1) While a licence is in force a licensing authority may, subject to and in accordance with the following provisions of this section, of its own motion—
  - (a) revoke any condition of the licence;
  - (b) vary any condition of the licence or impose any additional condition (in either case without exceeding the powers conferred by or by virtue of section 5 of this Act and in the latter case without imposing a condition with respect to the number of dock workers to be employed by the holder of the licence);
  - (c) if the authority is satisfied that there has been a serious or persistent failure on the part of the holder of the licence to comply with one or more of the conditions of the licence or it appears to the authority that the licence was granted to him, renewed or transferred to him in reliance on a statement or document in respect of which any person has been convicted of an offence under section 23 of this Act, revoke the licence.
- (2) The licensing authority shall not revoke a licence on the ground that the holder of the licence has failed to comply with a condition with respect to the number of dock workers to be employed by the applicant if the authority is satisfied that the failure was due solely to the failure of the Board to transfer sufficient numbers of dock workers to or from the holder of the licence under the labour scheme applicable to the port in question, or to circumstances beyond his control, or to both.
- (3) A licensing authority shall not act under subsection (1) of this section unless it has given one month's written notice of its proposal so to act to the holder of the licence, giving particulars of and the reasons for the proposal, and has considered any representations in writing made by the holder within one month of the receipt of that notice or such longer time as the authority may allow.
- (4) On deciding to act under subsection (1) of this section the licensing authority shall give notice in writing of its decision to the holder of the licence, the Council and the Board stating—

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- (a) in the case of a decision to revoke a licence, the reasons for the proposed revocation ; and
  - (b) in any case, the date on which the decision will come into force in accordance with the provisions of the next following subsection.
- (5) The decision shall come into force on the expiration of the period of three months or, in the case of a decision to revoke a licence, six months from the date of the giving of notice of the decision or if an appeal is brought or an objection made to the decision, from the disposal of the appeal or objection.
- (6) Before deciding to act under subsection (1) of this section the licensing authority shall consult with the Board.
- (7) While a licence is in force, the licensing authority may on the written application of the holder of the licence vary or revoke any condition of the licence or rectify the licence.
- (8) The licensing authority shall consider and make a decision on every application under the last foregoing subsection, and shall give notice in writing of its decision to the holder of the licence, the Council and the Board stating—
- (a) in the case of a decision to refuse the application, the reasons for the refusal;
  - (b) in the case of a decision to vary or revoke a condition of a licence, the date on which the decision will (if no objection is made there(a) come into force in accordance with the provisions of subsection (10) of this section.
- (9) A holder of a licence who is aggrieved by a decision to which this subsection applies shall have the like right of appeal against the decision as a person applying for a licence after the commencement of section 1 of this Act has against a decision of the licensing authority on his application, and the Council shall have the like right of making objections to a decision to which this subsection applies and of making representations with respect to any appeal against such a decision as it has against a decision on an application for a licence and an appeal against that decision; and sections 7, 8 and 9(5) of this Act shall apply in relation to any decision to which this subsection applies or any appeal or objection under this section as they apply in relation to any decision, appeal or objection on an application for a licence made after the commencement of section 1 of this Act—
- (a) with the substitution for any reference in section 7 of this Act to a notice of a decision under section 6 of this Act of a reference to a notice of a decision under subsection (4) or, as the case may be, subsection (8) of this section ; and
  - (b) with all other necessary modifications.
- This subsection applies to any decision of the licensing authority under this section, except a decision to rectify or not to rectify a licence.
- (10) A decision under subsection (8) of this section to vary or revoke any condition of a licence shall come into force on a date not earlier than the expiration of the period of twenty-eight days from the giving of notice of the decision; and if an objection is made by the Council to the decision, the decision shall not have effect until the objection is disposed of and, whether or not the Minister decides the objection, he may substitute another date for that specified in the notice of the decision.
- (11) Where a registered employer is suspended from a labour scheme, any licence held or obtained by him shall be of no effect while the suspension continues.

## **12 Transfer of licences**

- (1) With the consent of the licensing authority a licence may be transferred from one person to another or from a person in one capacity to the same person in another capacity.
- (2) Any application for consent under this section shall be made in writing and the applicant shall give the licensing authority such information as the authority may reasonably require for enabling it to come to a decision on the application.
- (3) The licensing authority shall consider and make a decision on every such application and shall give notice in writing of its decision to the applicant, the Council and the Board stating, in the case of a decision to refuse the application, the reasons for the refusal; and sections 7, 8 and 9(5) of this Act shall apply in relation to a decision on any such application as they apply in relation to a decision on an application for a licence made after the commencement of section 1 of this Act—
  - (a) with the substitution for any reference in section 7 of this Act to notice of a decision under section 6 of this Act of a reference to notice of a decision under this section; and
  - (b) with all other necessary modifications.
- (4) Where an individual who is the sole holder of a licence dies, the licence shall be deemed to have been transferred on his death to his legal personal representatives, but shall not remain in force, unless previously transferred under subsection (1) of this section, after whichever of the following events is relevant, that is to say, the expiration of the period of forty days from the grant of probate or letters of administration or such later date as the licensing authority may during that period allow.
- (5) Where an individual who is joint holder of a licence dies, the licence shall be deemed to have been transferred on his death to the other joint holder or holders of the licence.

### *Compensation of employers*

## **13 Compensation for refusal, etc., of licence**

- (1) Subject to the provisions of this and the two next following sections, if an application for a licence made before the commencement of section 1 of this Act or a subsequent application for the renewal of a licence made by the holder of a licence is refused, the applicant shall be entitled to receive from the licensing authority compensation computed in accordance with the following provisions of this section in respect of—
  - (a) any diminution in the value of the assets of his dock business in the port to which the application relates; and
  - (b) any expenditure, other than payments of income tax (including surtax), capital gains tax or corporation tax, incurred in winding up his dock business in that port,which is directly attributable to the refusal.
- (2) Subject as aforesaid, if a person who was both a registered employer and a registered dock worker immediately before the commencement of section 1 of this Act is not granted a licence before the commencement of that section, he shall, notwithstanding that he has made no application for a licence, be entitled to compensation computed in accordance with the following provisions of this section in respect of any such

diminution or expenditure as aforesaid which is directly attributable to the omission to grant him a licence.

- (3) The amount of compensation payable under this section in respect of the diminution in value of the assets of a person's dock business shall be an amount equal to the difference between their market value immediately before the refusal or omission to grant a licence and their market value immediately after the refusal or omission; and the market value immediately before the refusal or omission shall be computed—
  - (a) in the case of a refusal or omission before the commencement of section 1 of this Act, on the assumption that this Part of this Act had not been enacted ; and
  - (b) in the case of a subsequent refusal to renew a licence, on the assumption that the licence would have been renewed on the same terms as before, but without any condition as to the number of dock workers to be employed by the holder of the licence.
- (4) No compensation shall be given in respect of any expenditure incurred in winding up a person's dock business, in so far as that expenditure is taken into account in computing the amount of compensation payable to him under the last foregoing subsection.
- (5) For the purposes of subsection (3) of this section a refusal or omission to grant a licence before the commencement of section 1 of this Act shall be treated as taking place on the date on which notice is given of the final decision on all applications for licences and proposals for the port in question, and a refusal to renew a licence after the commencement of that section shall be treated as taking place on the date on which notice is given of the final decision on the application for the renewal of the licence.
- (6) In this section—
  - " assets " means assets of any description, including goodwill ;
  - " market value ", in relation to any assets, means the amount which they would have fetched if sold in the open market by a willing seller to a willing buyer.

## **14 Qualification for compensation**

- (1) No person shall be entitled to compensation under the last foregoing section unless he has as a registered employer employed dock workers in the port in question for some time during each of not less than eighty weeks during the qualifying period or for not less than five hundred man-days during that period.
- (2) In this section—
  - " the qualifying period " means the period of one hundred and four weeks ending with whichever of the following dates is relevant, that is to say—
    - (a) in the case of a person whose application for a licence was made, or a person who was both a registered employer and a registered dock worker, before the commencement of section 1 of this Act, the date of the expiration of the prescribed time for making the application for the licence;
    - (b) in the case of a person whose application for the renewal of a licence is refused, the date of the expiration of the period for which the licence was granted;
  - " week " means the period between midnight on any Saturday night and midnight on the following Saturday night.

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- (3) For the purposes of this section the number of man-days for which a registered employer employs dock workers in any period shall be taken to be the aggregate of the number of dock workers employed by him on each of the days during that period, and without prejudice to the foregoing provision a person shall be treated for the purposes of this section as employing a dock worker on any day if on that day he works for himself on dock work or he or a partner of his works on dock work for a firm in which both are partners.
- (4) If within the qualifying period the dock business of any person has been transferred by agreement or operation of law to another person, the person in whom it is vested at the end of that period shall be treated for the purposes of this section as if he had been a registered employer on those days on which any person in whom the business was vested during that period was a registered employer and as if he had employed the dock workers employed in the business on any of those days or, as the case may be, as if he had done any work done on any of those days by any registered employer in whom the business was then vested.

## **15 Applications for compensation**

- (1) An application for compensation under section 13 of this Act shall be made to the licensing authority within twenty-eight days, or such longer time as the licensing authority may allow, of whichever of the following dates is relevant, that is to say—
  - (a) where the applicant was both a registered employer and a registered dock worker before the commencement of section 1 of this Act but did not apply for a licence within the prescribed time for making an application for a licence, the day on which that time expires ;
  - (b) where the applicant made an application for a licence or the renewal of a licence which was refused, and there has been no appeal against or objection to the refusal, the last day on which an appeal or objection could have been brought or made without an extension of the time for appealing or objecting;
  - (c) where the applicant made such an application and there has been such an appeal or objection, the date on which the Minister gives notice of his decision on the appeal or objection.
- (2) An application for compensation shall be made in the prescribed manner and shall be accompanied by the prescribed particulars.

## **16 Determination of amount of compensation**

- (1) Within six months of the making of an application for compensation under section 13 of this Act the licensing authority shall determine whether any compensation is payable under that section and, if it determines that compensation is so payable, shall seek to agree or, in default of agreement, shall determine the amount of compensation payable.
- (2) Where the licensing authority agrees or determines the amount of any compensation it shall give the applicant notice in writing of the amount agreed or determined, and where the authority determines that no compensation is payable as aforesaid it shall give the applicant notice of the determination, together with the reasons therefor.
- (3) Any applicant for compensation who is aggrieved by a determination whether compensation is payable to him or as to the amount of compensation payable may,

within twenty-eight days of the authority's giving him notice of the determination, give the authority notice in writing that he disputes the determination.

- (4) Upon receipt of such a notice the authority shall refer the dispute to the Minister and he shall refer it to the arbitration of an arbitrator or arbiter, as the case may be, appointed by him.
- (5) Where no notice is given under subsection (3) of this section, the amount of compensation, if any, agreed or determined under this section shall be a debt due from the licensing authority to the person to whom compensation is to be paid, and shall be recoverable accordingly.
- (6) In relation to an arbiter appointed under subsection (4) of this section the following provisions shall apply—
  - (a) any arbiter so appointed shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath and the awarding of expenses, as if the arbitration were under a submission;
  - (b) the arbiter may, and if so directed by the Court of Session shall, state a case for the opinion of that Court on any question of law arising in the proceedings ; and
  - (c) any award of an arbiter so appointed in pursuance of this section may be recorded in the Books of Council and Session for execution, and may be enforced accordingly.

## **17 Loans to licensing authorities**

- (1) A licensing authority may borrow from the Minister or otherwise any sums required by the authority for the purpose of making payments of compensation and interest thereon and of meeting any costs and expenses of and incidental to any arbitration under the last foregoing section, and the Minister may, out of moneys provided by Parliament, lend such sums to the authority.
- (2) Any loan made by the Minister under this section shall be repaid to him at such times and by such methods, and interest thereon shall be paid to him at such rates and at such times, as he may, with the approval of the Treasury, from time to time direct.
- (3) Any loan so made shall be disregarded in determining whether any limit imposed by any enactment or any instrument under an enactment on the amount which the licensing authority may borrow has been exceeded.

## **18 Levy on licensed employers**

- (1) A licensing authority which has made any payment of compensation or interest thereon, or of any costs and expenses of and incidental to any arbitration under section 16 of this Act, may, subject to the following provisions of this section, recover the whole or any part of the sums so paid, together with a reasonable amount in respect of interest thereon from the date of payment, by means of a levy imposed on the persons holding licences for the port in question at the end of the relevant period.

The aggregate of the sums so paid and of the said amount of interest is hereafter in this section referred to as the potential amount of the levy.

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- (2) A person whose licence is revoked during the relevant period shall be treated for the purposes of this section as if the licence were in force at the end of that period.
- (3) A levy imposed under this section—
  - (a) may be required to be paid either in one sum or by instalments over such period, not exceeding five years, as the licensing authority thinks fit; and
  - (b) shall be charged with interest at a reasonable rate on the amount outstanding from the date of the decision to impose the levy;and interest on the levy shall be payable on the date of payment of the levy or each instalment thereof, as the case may be.
- (4) Before determining whether to require a levy under this section to be paid in one sum or by instalments and, if by instalments, the period over which it is to be paid the licensing authority shall consult the persons liable to contribute to the levy.
- (5) The amount payable by any person under the levy shall be calculated by reference to the total amount of gross wages paid by him during the relevant period to registered dock workers employed by him in the port in question and shall bear the same proportion to the potential amount of the levy as the total amount of those wages bears to the total amount of gross wages paid by all registered employers during that period in the port to registered dock workers employed by them there.
- (6) If during the relevant period the dock business of any person has been transferred by agreement or by operation of law to another person, the person in whom it is vested at the end of that period shall be treated for the purposes of this section as if he had employed in the port in question the dock workers employed there in the business during that period and had paid the wages paid to them during that period.
- (7) Not less than twenty-eight days before the levy or the first instalment thereof is to become payable the licensing authority shall serve on each person who is liable to pay the levy a notice stating—
  - (a) the potential amount of the levy, showing separately the amounts of compensation or interest paid, of any costs and expenses paid, and of any interest on any such payments;
  - (b) the total amount of the gross wages paid during the relevant period in the port in question by all registered employers to registered dock workers employed by them there, the total amount of the gross wages paid during that period by the person on whom the notice is served to registered dock workers employed by him there and the proportion which the latter amount bears to the former;
  - (c) the total amount of the gross wages paid during that period by the licensing authority to registered dock workers employed by it in the port in question;
  - (d) the amount of the levy to be paid by the person on whom the notice is served and the share of the potential amount of the levy which is to be borne by the licensing authority;
  - (e) the date by which payment of the levy is required to be made or, if payment is to be allowed by instalments, the amount of each instalment, the date of payment of the first instalment and the intervals thereafter on which subsequent instalments are to be paid and the rate of interest payable on the levy.
- (8) If it appears to the licensing authority that any amount specified in a notice served on any person under the last foregoing subsection has been incorrectly calculated,



the licensing authority may by a subsequent notice served on that person correct the amount so specified.

- (9) Any sum payable under the levy shall be a debt due to the licensing authority from the person liable to pay it and shall be recoverable accordingly.
- (10) A licensing authority shall keep a separate account in respect of each levy imposed by it, and every such account shall be open to inspection at all reasonable times by any person who is liable to contribute to the levy to which it relates.
- (11) In this section " relevant period " means—
- (a) in relation to a levy to recover an amount paid for compensation for refusal or omission to grant a licence before the commencement of section 1 of this Act, or for interest thereon or costs and expenses incidental thereto, the period of twelve months beginning with the commencement of that section; and
  - (b) in relation to a levy to recover the amount paid for compensation for refusal to renew a licence, or for interest thereon or costs and expenses incidental thereto, the period of twelve months beginning with the date of the refusal;
- and the amount of any gross wages paid by a registered employer during any period shall be taken for the purposes of this section to be the amount specified in the return of gross wages paid by him during that period made by him to the local board in pursuance of any labour scheme.

## **19 Certificates**

- (1) The following certificates shall be evidence of the facts stated in them—
- (a) a certificate signed by an officer of the Board as to any of the matters mentioned in section 14(1) of this Act;
  - (b) a certificate signed by an officer of the Board as to the total amount of gross wages paid by any person during the relevant period within the meaning of the last foregoing section to registered dock workers employed by him in any port; and
  - (c) a certificate signed by an officer of a licensing authority that a copy of a notice under subsection (7) of the last foregoing section of this Act is a true copy.
- (2) A document purporting to be such a certificate as is mentioned in the foregoing subsection shall be taken to be such a certificate as aforesaid and received in evidence accordingly unless it is proved not to be such a certificate.

### *Miscellaneous*

## **20 Duty of the Board**

Without prejudice to its functions under any labour scheme, the Board shall take all reasonably practicable steps, to secure—

- (a) that a person to whom a licence is granted is able to comply with any conditions of his licence with respect to the number of permanent workers to be employed by him; and
- (b) that a licensing authority is able to carry out any proposal (in the form in which it is to be carried out) with respect to the number of such workers to be employed by the authority.

## **21 Records and information**

- (1) A licensing authority shall keep at its office—
- (a) a record of all licences issued by it under this Act, showing the name and address of each licence holder, the date on which each licence came or will come into force, the conditions subject to which it is from time to time held, the period for which it was issued and such other particulars of the licence as may be prescribed; and
  - (b) a record of any proposal of the authority which has come into force and the terms of the proposal as it is to be carried out from time to time;
- and the record shall be open to inspection by any person at any reasonable hour free of charge.
- (2) The Board shall give a licensing authority such information<sup>1</sup> as the licensing authority may from time to time require for the purpose of any of its functions under this Act as to the number of dock workers and licensed employers on the registers under the labour scheme relating to any port for which it is the licensing authority and such other particulars which the Board can provide as the licensing authority may require for that purpose.

## **22 Delegation of functions of licensing authority**

A licensing authority may delegate to a committee of the authority any of the authority's functions under this Act, except the authority's power to decide whether to grant, renew or revoke a licence and to decide the period for which a licence is to be granted or renewed.

## **23 False statements**

Any person who, for the purpose of procuring the issue, renewal, transfer or revocation of a licence or the variation or revocation of a condition imposed on a licence—

- (a) makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or
- (b) produces, furnishes, sends or otherwise makes use of a document which he knows to be false in a material particular or recklessly produces, furnishes, sends or otherwise makes use of a document which is false in a material particular;

shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding £100 or both.

## **24 Inter-relation of requirements of this Part of this Act and other Acts and instruments**

- (1) Nothing in this Part of this Act shall be construed as prejudicing the obligation of any person to comply with a requirement imposed by or under any labour scheme.
- (2) Nothing in any other Act or any instrument made under any other Act shall be construed as derogating from any requirement imposed by this Part of this Act.
- (3) A licence shall be sufficient authority to employ dock workers in a port to which the licence relates, notwithstanding any restriction on the carrying out of dock work or the

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employment of dock workers in that port, or in ports generally, imposed by any other enactment or any instrument made under an enactment, other than a labour scheme.