



Docks and Harbours Act 1966

1966 CHAPTER 28

PART IV

MISCELLANEOUS AND GENERAL

51 References of disputes about the meaning of "dock work " to a tribunal

- (1) Where it appears to the Board or a licensing authority that there is a dispute between the Board or the licensing authority, as the case may be, and any other person about a question to which this section applies, or it appears to any person other than the Board or a licensing authority that there is such a dispute between him and the Board or a licensing authority about such a question, and—
 - (a) there are for the time being no legal proceedings (including arbitrations) with reference to that question ; and
 - (b) there has been no previous reference of that question the decision on which is binding under this section on the person to whom it appears as aforesaid;the question may, subject to the provisions of the next following subsection, be referred by the last-mentioned person to, and if so referred shall be determined by, a tribunal established under section 12 of the Industrial Training Act 1964.
- (2) Where the last-mentioned person is neither the Board, nor a licensing authority nor a person who employs others on dock work in, or in the vicinity of, a port or on work of any description to which, or at a place to which, the dispute relates, the question to which the dispute relates may only be referred to any such tribunal as aforesaid by a trade union on behalf of that person, but the fact that the question is so referred shall not make the trade union a party to the dispute or prevent that person from being such a party.
- (3) This section applies to the following questions, that is to say—
 - (a) whether any work is dock work ;
 - (b) whether any place is in, or in the vicinity of, a port to which a labour scheme for the time being applies.

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- (4) Where any question to which this section applies arises in any proceedings before a magistrates' court or a sheriff or on an appeal to quarter sessions from a magistrates' court, the court shall, if there has been no previous reference of that question the decision on which is binding under this section on both parties to the proceedings, stay the proceedings and refer it to such a tribunal as aforesaid and the tribunal shall decide it.
- (5) In addition to the parties to the dispute or proceedings, the following persons may appear and be heard before the tribunal on a reference under this section:—
- (a) the Board;
 - (b) the licensing authority for the port in question ;
 - (c) where the question referred is whether work of any description is dock work, any person who employs others on work of that description and any person employed on such work;
 - (d) where the question referred is whether any place is in, or in the vicinity of, a port, any person who employs others or works at that place.
- (6) The tribunal's decision on any reference under this section shall be binding on the following persons:—
- (a) the parties to the dispute or proceedings which occasioned the reference;
 - (b) the Board;
 - (c) the licensing authority for the port in question ;
 - (d) any other persons entitled to appear and be heard on the reference who did so appear ;
 - (e) any court which or sheriff who referred the question to the tribunal and any court of quarter sessions having cognizance of the matter on appeal from any magistrates' court which so referred the question;
- but the foregoing provision shall not preclude any of the persons mentioned in paragraphs (a) to (d) of this subsection from challenging the decision on a subsequent reference under this section by any person not so mentioned or by any court.
- (7) Where a question is referred under this section to the tribunal, the tribunal shall state the facts which it finds and the reasons for its decision.
- (8) Subsection (4) of this section shall not apply to proceedings instituted before the day appointed for the coming into operation of this section.
- (9) In this section "trade union " has the same meaning as in the Trade Union Act 1913.

52 Inquiries

- (1) Subject to the next following subsection, the relevant Minister shall direct an inquiry to be held in connection with—
- (a) the consideration and determination by him of appeals or objections made under any provision of Part I or II of this Act; and
 - (b) any proposal to exercise his power to revoke a licence under section 30 of this Act;
- and may direct an inquiry to be held in connection with any other matter about which he has functions under either of those Parts.
- (2) The relevant Minister need not direct an inquiry to be held in connection with any appeal or objection if he obtains consent in writing to dispense with the inquiry—

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- (a) in the case of an appeal or objection under Part I of this Act, from all the persons prescribed by regulations under this section as persons entitled to appear at the inquiry;
 - (b) in the case of an objection under section 25(4) of this Act to a welfare amenity scheme or any amendment of such a scheme, from the person who made the objection, the Board and all other persons whose obligations under the scheme might in the opinion of the relevant Minister be varied by any modifications of the scheme likely to be made in the light of the objection ;
 - (c) in the case of an appeal under section 27(3) of this Act, from the appellant and the Board.
- (3) Any number of matters may be dealt with at one inquiry.
- (4) An inquiry held in pursuance of a direction under this section shall be held by a competent person appointed by the relevant Minister and that person may conduct the inquiry either alone or with the assistance of an assessor or assessors so appointed.
- (5) The person appointed to hold an inquiry under this section shall, after holding it, report to the relevant Minister on his findings at the inquiry and shall recommend to the Minister what decision the Minister should make in the matter.
- (6) The relevant Minister shall by regulations make such provision as appears to him to be necessary or expedient with respect to the proceedings at or in connection with inquiries under this section including, in particular, provision—
 - (a) for requiring notice to be given of the appointment of any person to hold any such inquiry, and of the date, time and place on which it will be held, to such persons as may be determined by or under the regulations;
 - (b) for prescribing or providing for determining the persons who may appear and be heard at any such inquiry;
 - (c) for requiring persons to attend to give evidence and produce documents (except evidence or documents which those persons could not be compelled to give or produce in proceedings before the High Court);
 - (d) for authorising the administration of oaths to witnesses;
 - (e) for requiring copies of documents to be furnished by persons entitled to appear at any such inquiry to other such persons;
 - (f) for prescribing the procedure to be followed at any such inquiry;
 - (g) for authorising the recovery by the relevant Minister of the whole or part of the expenses incurred by him in relation to any such inquiry from all or any of the following persons:—
 - (i) the persons appearing at the inquiry ;
 - (ii) any appellant or objector, whether appearing or not, whose appeal or objection occasioned the inquiry ;
 - (iii) in the case of an inquiry into a matter arising under Part I of this Act, the licensing authority;
 - (iv) in the case of an inquiry into a matter arising under Part II of this Act, the Board;
 - (h) for the award of costs and expenses; and
 - (i) for taxing or otherwise settling any costs or expenses awarded by virtue of the last foregoing paragraph (and, in particular, in England and Wales, for enabling such costs to be taxed in the county court) and for the enforcement of any award of costs and expenses.

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- (7) Any person who without reasonable excuse fails to comply with any requirement imposed by regulations made by virtue of paragraph (c), (d) or (e) of the last foregoing subsection shall be liable on summary conviction to a fine not exceeding £50 or imprisonment for a term not exceeding three months or both.
- (8) The relevant Minister' may out of moneys provided by Parliament pay to persons appointed to hold inquiries under this Act and to assessors at such inquiries such fees and allowances, and to persons giving evidence before such inquiries such allowances, as he may with the consent of the Treasury determine.
- (9) In this section " the relevant Minister " means, in relation to any matter or an inquiry into any matter arising under Part I of this Act, the Minister of Transport and, in relation to any matter or an inquiry into any matter arising under Part II of this Act, the Minister of Labour.

53 Penalties for contravention of labour schemes

The punishment which may be imposed on summary conviction under section 1(5) of the 1946 Act on a person guilty of an offence under that section (contravention of labour schemes) shall, instead of being that specified in that subsection, be—

- (a) in the case of an individual, imprisonment for a term not exceeding three months or a fine not exceeding £50 or both;
- (b) in the case of a body corporate, a fine not exceeding £500;

and accordingly in that subsection the words from " and shall " onwards shall cease to have effect.

54 Offences by bodies corporate

- (1) Where an offence under this Act or section 1(5) of the 1946 Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) In the foregoing subsection the expression " director ", in relation to any body corporate which is established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking and whose affairs are managed by the members thereof, means a member of that body.

55 Notices

- (1) Subject to the provisions of this section, any notice required or authorised by or by virtue of Part I or II of this Act to be served on or given to any person may be served or given by delivering it to him, or by leaving it at his proper address, or by sending it to him by registered post or the recorded delivery service.
- (2) Any such notice required or authorised to be served on or given to a corporation or firm shall be duly served or given if it is served on or given to, as the case may be, the secretary or clerk of the corporation or a partner in the firm.
- (3) For the purposes of this section and of section 26 of the Interpretation Act 1889 in its application to this section the proper address of a person on or to whom any such

notice as aforesaid is to be served or given shall, in the case of the secretary or the clerk of a corporation, be that of the registered or principal office of the corporation, in the case of a partner in a firm, be that of the principal office of the firm, and in any other case, be the last known address of the person to be served :

Provided that, where the person on or to whom the notice is to be served or given has, in accordance with arrangements agreed, furnished an address for the service or giving of the notice, if an address in the United Kingdom, his proper address for the purposes aforesaid shall be the address furnished.

- (4) Any such notice required or authorised to be served on or given to the Board may be served or given by serving it on or giving it to their General Manager, whose proper address for this purpose shall be the principal office of the Board.
- (5) The foregoing provisions of this section shall apply to the sending of a document as they apply to the giving of a notice.

56 Regulations and orders

- (1) The Minister of Transport and the Minister of Labour respectively may make regulations for any purpose for which regulations may be made under Part I or Part II of this Act, for prescribing anything which may be prescribed under the said Part I or the said Part II and generally for the purpose of carrying those Parts of this Act into effect.
- (2) Without prejudice to the generality of the foregoing subsection, regulations under this section may make provision with respect to any of the following matters:
 - (a) the forms of licences, notices and other documents to be used for the purposes of Parts I and II of this Act and the particulars to be contained therein ;
 - (b) application for, and the issue of, licences ;
 - (c) the issue of replacements for licences lost or defaced ;
 - (d) the extension of any period of time prescribed by the regulations;and different provision may be made by the regulations for different cases.
- (3) Any power to make an order or regulations under this Act, other than a power conferred by section 29, 31 or 34 of this Act, shall be exercisable by statutory instrument, and any statutory instrument containing any such order or regulations shall, except in the case of regulations under section 4(4) or an order under section 60 of this Act, be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Any order made by the Minister of Transport or the Minister of Labour under any provision of this Act may be varied or revoked by a subsequent order so made.

57 Expenses

There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by any Minister in carrying this Act into effect; and
- (b) any increase attributable to this Act in the sums payable out of moneys so provided by way of Rate Deficiency Grant or Exchequer Equalisation Grant under the enactments relating to local government in England and Wales or in Scotland.

58 Interpretation

(1) In this Act, except so far as the context otherwise requires—

" the Board ", except in Part III of this Act, means the National Dock Labour Board or any other body for the time being constituted or prescribed under the 1946 Act to be responsible for the administration of any labour scheme;

" cargo " includes anything carried or to be carried in a ship or other vessel;

" the Council " means the National Ports Council established under the 1964 Act;

" dock business " means so much of a business or undertaking as relates to dock work, including any ancillary activities which it is necessary to carry on in connection with dock work;

" dock work ", in relation to any port, means work which is treated for the purposes of any labour scheme as dock work at that port;

" dock worker " means a person employed or to be employed on dock work ;

" factory inspector " means an inspector appointed under section 145 of the Factories Act 1961 ;

" harbour authority ", except in Part III of this Act, means any person engaged (whether or not in the exercise and performance of statutory powers and duties), or proposing to become engaged, in the improvement, maintenance or management of a harbour within the meaning of the 1964 Act;

" labour scheme " means a scheme for the time being in force under the 1946 Act;

" licence " means a licence under this Act;

" local board " means a board constituted under the 1946 Act to be responsible for the local administration of any labour scheme;

" the Minister " means in Part I and, without prejudice to section 50 of this Act, in Part III of this Act the Minister of Transport and in Part II of this Act the Minister of Labour;

" the 1946 Act " means the Dock Workers (Regulation of Employment) Act 1946;

" the 1964 Act " means the Harbours Act 1964;

" permanent worker " means a registered dock worker (other than a supplementary worker) who is employed under a contract which requires at least one week's notice for its termination;

" registered dock worker " means a dock worker whose name is for the time being entered in the register of dock workers kept under a labour scheme and " registered employer " means an employer of dock workers whose name is for the time being entered in the employers' register kept under any such scheme;

" supplementary worker " means a registered dock worker whose name is entered in the said register of dock workers for a limited period ;

" unavailable worker " means a worker who under a labour scheme is not required to be allocated to, and taken into employment as a permanent worker by, a registered employer.

(2) Before making an order under section 2(3) of this Act as respects any port, or exercising as respects any port any functions under Part I of this Act or so much of this Part of this Act as relates to the said Part I, the Minister of Transport shall—

- (a) if the port is a marine work within the meaning of the 1964 Act, consult the Secretary of State; and

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- (b) if the port is a fishery harbour within the meaning of that Act, consult the Minister of Agriculture, Fisheries and Food;
- and Part I and this Part of this Act shall have effect accordingly.
- (3) In this Act, except so far as the context otherwise requires, any reference to employment shall be construed as a reference to employment on dock work, and cognate expressions shall be construed accordingly.
- (4) Any reference to a port in the provisions of Part I of this Act (other than section 2(2) or (3)) or of Part II of this Act or the next following section shall be construed as including a reference to any place in the vicinity of that port; but a place shall not be treated for the purposes of this Act as being in the vicinity of a port if it is in the area of another port.
- (5) Where an appeal is brought or an objection is made to the Minister of Transport under any provision of Part I of this Act and is subsequently withdrawn, the appeal or objection shall be treated for the purposes of this Act as disposed of at the time it is withdrawn.
- (6) References in this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended, extended or applied by or under any other enactment, including any enactment contained in this Act.

59 Power to amend Acts of local application

- (1) The appropriate Minister may, after consultation with any harbour authority appearing to him to be concerned, by order repeal or amend any provision contained in a local Act passed before or in the same Session as this Act or in a provisional order confirmed or made before this Act, where it appears to him that the provision is inconsistent with, or has become unnecessary in consequence of, any provision of Part I or II of this Act.
- (2) An order under this section may contain such transitional, supplemental or incidental provisions as appear to the appropriate Minister to be expedient.
- (3) In this section "appropriate Minister" means, in relation to an order containing repeals or amendments consequential on a provision of Part I of this Act, the Minister of Transport and, in relation to an order containing repeals or amendments consequential on a provision of Part II of this Act, the Minister of Labour.

60 Short title, commencement and extent

- (1) This Act may be cited as the Docks and Harbours Act 1966.
- (2) Part I of this Act shall come into operation on a day appointed by an order made by the Minister of Transport and Part II and section 51 of this Act shall come into operation on a day appointed by an order made by the Minister of Labour, and different days may be appointed under this section for different purposes and, in particular, different days may be so appointed for the coming into operation of the same provision in different ports.
- (3) Any reference in Part I or II of this Act to the commencement of any provision thereof shall, in relation to any port, be construed as a reference to the day appointed for the coming into operation of that provision in that port.

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- (4) In determining the day to be appointed for the coming into operation of section 1 of this Act in any port the Minister of Transport shall have regard to any representations made to him by any, person who has applied for, but will not be granted, a licence for that port.
- (5) This Act shall not extend to Northern Ireland.