



Dock Work Regulation Act 1976

1976 CHAPTER 79

Arrangements for classifying dock work

6 Review of what is now dock work

- (1) Within the period of six months beginning with the appointed day the Board shall report to the Secretary of State, separately in respect of each of the ports where the 1967 Scheme is in force, how at that port the Scheme is currently applied as respects the descriptions of work which are for its purposes dock work or are so treated by custom and practice.
- (2) The Board's report in each case shall specify—
 - (a) every category of such work done in the port, in the period of twelve months ending with the appointed day, in whose case there were employed to do it either—
 - (i) registered dock workers, or
 - (ii) with permission of the local dock labour board under clause 10 of the 1967 Scheme, persons other than registered dock workers; and
 - (b) in respect of each category of work, the premises at which it is or was done.
- (3) Copies of the Board's report shall be given—
 - (a) to all those who are, or have been at any time in the period of twelve months ending with the appointed day, employers of workers on work of any such category as is specified in subsection (2) above;
 - (b) to any trade union which is, or at any time in that period was, recognised by an employer in respect of any such workers ; and
 - (c) to any other person appearing to the Board to be concerned with the subject matter of the report.
- (4) A report by the Board under this section may be referred back to them by the Secretary of State, with his observations, if he thinks it possible that they have misdirected themselves in relation to any aspect of it; and—
 - (a) the Board shall then within one month of the reference back report further to the Secretary of State, taking his observations into account; and

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- (b) subsection (3) above also applies to this further report.
- (5) As soon as may be after receiving a report (or further report) by the Board under this section relating to any port (but not until all those mentioned in subsection (3) above have had at least a month in which to make representations), the Secretary of State shall prepare, with a view to making and bringing into force, an order or orders—
- (a) specifying (in such terms as he thinks appropriate) the descriptions of work referred to in the report, in each case by reference to the premises at which the work is or has been done ; and
 - (b) classifying any such description of work (so far as done at those premises) as dock work for the purposes of the new Scheme.
- (6) In this section " port" means any one of the individual ports listed in Appendix 1 to the 1967 Scheme, together with any area as to which the Board is satisfied that it has for purposes of that Scheme's application been treated as belonging to the port.

7 Loading and unloading operations

- (1) This section applies to any work of loading cargo into ships or unloading cargo from ships, other than work done in a port where the 1967 Scheme is in force; and for this purpose " cargo " and " ship " mean the same as in Schedule 4 to this Act and " port" means the same as in section 6 above.
- (2) If during the period of one month beginning with the appointed day, any such work is done at premises situated in a definable dock area by individuals employed to do it, then subject to subsection (3) below the employer shall within the period of three months beginning with that day send to the Board a written statement specifying the work and giving with respect to it the additional particulars mentioned below.
- (3) The obligation to send a statement under this section—
- (a) arises only in respect of work which is done in the course of the employer's business, and for which he is paid (otherwise than by an associated company of his); and
 - (b) does not fall on any body corporate established as mentioned in paragraph 9 of Schedule 4 to this Act (nationalised undertakings) or any subsidiary of such a body, except—
 - (i) the British Transport Docks Board and its subsidiaries,
 - (ii) the British Waterways Board and its subsidiaries, in respect of work done for the purposes of the Board's functions under section 10(1)(b) of the Transport Act 1962 (provision of port facilities);
 and no such statement is required in respect of the loading or unloading of any of the substances mentioned in paragraph 15 of Schedule 4 to this Act.
- (4) The additional particulars required in a statement under this section are—
- (a) the address or description of the premises where the work of loading or unloading cargo was done ;
 - (b) the name and business address of the employer;
 - (c) the minimum and maximum number of individuals who were employed on the work during the month beginning with the appointed day; and
 - (d) the name of any trade union which is concerned with the classification of the work ;

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and a trade union is so concerned if the employer recognises it in respect of workers employed to do (at those premises or elsewhere) any work within Part I of Schedule 4 to this Act and not within Part II of that Schedule.

(5) Where a person is required by subsection (2) above to send the statement there referred to, it shall be an offence for him—

- (a) to fail to send the statement within the three months there mentioned; or
- (b) to include in a statement furnished in purported compliance with the subsection any matter which he knows to be false or does not believe to be true ;

and a person guilty of an offence under this subsection shall be liable on summary conviction to a fine of not more than £400.

(6) On receiving the statement the Board shall—

- (a) forthwith inform any trade union named in it of the contents of the statement and the effect of this section and sections 10 and 11 below and invite the union to make representations within one month; and
- (b) after considering any representations received from employers and trade unions concerned and within nine months from the appointed day (or such longer period as the Secretary of State may allow in the case of any particular work), report to the Secretary of State whether or not they recommend that the whole or any part of the work specified in the statement, so far as done at the premises there specified, be classified for the future as dock work.

(7) The Board shall not so recommend if the work appears to them to be within Part II of Schedule 4 to this Act; but subject to this they shall, in preparing their report for the Secretary of State, consider whether the work—

- (a) is such that those employed on it need training, aptitudes and experience the same as, or similar to, those of registered dock workers ; and
- (b) requires for its efficient performance the engagement of a permanent labour force ;

and in so far as their opinion on those questions is affirmative those shall (in the absence of countervailing considerations) be grounds for recommending classification.

(8) The Board shall for the purposes of their report consult such persons as appear to them to be concerned with its subject matter; and they shall in particular consult—

- (a) the National Ports Council as to any relevant responsibilities of that Council under the Harbours Act 1964 ;
- (b) the Minister of Agriculture, Fisheries and Food as to any relevant responsibilities of his in relation to fishery harbours; and
- (c) the Secretary of State as to any relevant responsibilities of his (under the Harbours Act 1964, or otherwise) in relation to marine works in Scotland.

(9) The Board shall in their report—

- (a) record for the Secretary of State the views of those they have consulted and also any representations made by the employers and trade unions concerned; and
- (b) state whether or not the Board have it in mind to make any recommendation under section 8 below in respect of other work done or to be done, under the same employer, at or near the same premises.

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- (10) Copies of the Board's report shall be given—
- (a) to all those who are employers of workers on work to which the report relates ;
 - (b) to any trade union which is recognised by such an employer in respect of any such workers ; and
 - (c) to any other person appearing to the Board to be concerned with the subject matter of the report,
- together with an intimation by the Board that they have one month in which to make representations to the Secretary of State.

8 Cargo-handling operations in general

- (1) Subject to the provisions of this Act, the Board may, in the case of any work done or to be done at premises situated in a definable dock area and falling within Part I of Schedule 4 to this Act and not within Part II of that Schedule, report to the Secretary of State with a recommendation that the work, or some specified part of it, so far as done at those premises, be classified for the future as dock work.
- (2) The Board's recommendation must specify—
- (a) the address or description of the premises where the work is, or is to be, done ;
 - (b) the name of the person (" the employer ") for whom the work is, or is to be, done ; and
 - (c) the name of any trade union which is concerned with the classification of the work ;
- and a trade union is so concerned if the employer recognises it in respect of workers employed to do (at those premises or elsewhere) any work within Part I of Schedule 4 to this Act and not within Part II of that Schedule.
- (3) In Part I of Schedule 5 to this Act there is set out the procedure, by way of giving notices to and inviting representations from employers, trade unions and others, which is to be complied with before the Board make any recommendation to the Secretary of State under this section; and Part II of that Schedule applies as to the terms of the recommendation and the manner of making it, and the action to be taken after it has been made.
- (4) The Board may under that Schedule determine that there are prima facie grounds for making a recommendation if it appears to them that the work—
- (a) is, or is to be, done by way of substitution for other work previously done by registered dock workers, whether at the same premises or elsewhere ; or
 - (b) is such that those employed on it need training, aptitudes and experience the same as, or similar to, those of registered dock workers; or
 - (c) is for the time being done wholly or mainly by workers employed as casual labour.
- (5) The Board shall not on any one or more of those grounds alone, and without more, make a recommendation under this section with respect to the work; but they shall consider in particular, as well as all other matters appearing to them to be relevant—
- (a) whether the work requires for its efficient performance the engagement of a permanent labour force ;
 - (b) whether classification of the work would assist the making or improvement of arrangements—

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- (i) for creating and maintaining an adequate labour force both for that work and for other work that is or may be classified;
 - (ii) for rationalising the deployment of labour on any such work ; and
 - (iii) for removing such anomalous distinctions between different categories of workers as may impede the efficient performance of the work, or dock work in general, or impede the development of good labour relations; and
 - (c) whether classification of the work would adversely affect—
 - (i) the efficient performance of other work done at the same premises, having regard to the amount of that work, as compared with the amount of work under consideration, and the extent to which that work is integrated with the work under consideration ; or
 - (ii) the maintenance of good labour relations among workers employed at those premises.
- (6) The Board shall for the purposes of their recommendation consult such persons as appear to them to be concerned with its subject matter; and they shall in particular consult—
- (a) the National Ports Council as to any relevant responsibilities of that Council under the Harbours Act 1964;
 - (b) the Minister of Agriculture, Fisheries and Food as to any relevant responsibilities of his in relation to fishery harbours or the storage of food ; and
 - (c) the Secretary of State as to any relevant responsibilities of his (under the Harbours Act 1964, or otherwise) in relation to marine works in Scotland.
- (7) The Board shall in their recommendation record for the Secretary of State the views of those they have consulted, and also any representations made to them about it.

9 Reference by Secretary of State to the Board

- (1) The Secretary of State may, after consultation with the Trades Union Congress and the Confederation of British Industry, direct the Board to take into consideration any work, done or to be done at premises situated in a definable dock area, with a view to the Board making a recommendation (if they think it right to do so)—
- (a) in the case of work within Part I of Schedule 4 to this Act and not within Part II of that Schedule, that it should, so far as done at those premises, be classified for the future as dock work ; or
 - (b) in the case of any work which is for the time being classified, that it should cease to be so.
- (2) Having given the Board such a direction, the Secretary of State shall publish notice that he has done so, informing persons interested where they can obtain a copy of the direction, and giving them at least sixty days in which to make representations to the Board.
- (3) The Board shall, within such time or extended time as the Secretary of State may allow them, report to him their opinion on the matters they were directed by him to consider.
- (4) The Board shall include in their report—
- (a) such recommendation (if any) as they think it right to make with regard to classification or de-classification of the work or any part of it and their reasons for making that recommendation ; and

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- (b) where they determine not to make a recommendation, their reasons why not; and
 - (c) a record of any representations made to them, and the consultations they have had, on the matters in question.
- (5) The Secretary of State shall publish the Board's report, together with a statement—
- (a) indicating whether or not he proposes to take any action following the report, and if so what that action is to be; and
 - (b) where the report recommends the taking of any action and he determines not to take it, or determines to take some different action, his reasons for that determination.
- (6) Without prejudice to the above, the Secretary of State may at any time refer to the Board for their advice any question relating to work which has been classified.

10 Registration after work is classified

- (1) The following provisions of this section apply whenever the Board recommend that work should be classified, or report to the Secretary of State, on a reference by him under section 9(1)(a), without making such a recommendation.
- (2) They shall include in their recommendation or report proposals, for the event that any work which they have recommended for classification or (as the case may be) they have considered on the reference, should be classified, as to the safeguards which should be provided for the existing workforce, that is to say those persons who will have been employed to do that work prior to its classification.
- (3) If in the case of any of the existing workforce the Board are of opinion that there are special reasons why they should not, after the work is classified, be eligible for registration yet should continue entitled to be employed in the work notwithstanding the general prohibition of section 12(4) below, that opinion shall be embodied in the Board's proposals under subsection (2).
- (4) As respects all others of the existing workforce, the Board shall include in their proposals a recommendation as to the period (not to be more than 2 years) for which these others ought to remain included in an extension register before being transferred from that register to a main register.

11 Classification orders

- (1) Subject to the provisions of this section, the Secretary of State may by order applying to any description of work done or to be done at specified premises situated in a definable dock area, direct that the work, so far as done at those premises, be classified as dock work for the purposes of the new Scheme, or shall cease to be so classified.
- (2) Subject to subsection (4) below, orders directing that work be classified shall be made only as and when the Secretary of State thinks it expedient—
- (a) for preserving as dock work under the new Scheme (pursuant to a report by the Board under section 6) any work which was dock work for the purposes of the old Scheme, or so treated by custom and practice ; or
 - (b) for giving effect to a recommendation of the Board under section 7, 8 or 9.

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- (3) Also subject to subsection (4), an order that work shall cease to be classified shall be made only as and when the Secretary of State thinks it expedient for giving effect to a recommendation of the Board under section 9.
- (4) In the case of work which has been the subject of a direction to the Board under section 9, the Secretary of State may, after considering the Board's report, make an order under this section directing that the work be classified or, as the case may be, that it shall cease to be classified, notwithstanding that this is contrary to the Board's opinion; but an order is not to be made by virtue of this subsection unless a draft of it has been laid before Parliament and approved by a resolution of each House.
- (5) Where the Secretary of State makes an order under this section directing, in the case of work done or to be done at any premises, that it be classified as dock work, he may also by the order direct that, as respects any category of persons who have been employed to do that work in a specified period before the order comes into force, the Scheme is to be applied and have effect subject to provisions of the order, being provisions considered appropriate by him for giving effect (with or without modifications) to any proposals made by the Board under section 10 above.

12 Effect of introducing the new Scheme

- (1) An order of the Secretary of State bringing the new Scheme into force for an area comprising any of the ports specified in Schedule 1 to the 1966 Act shall—
 - (a) comprise an order by him under section 2(3) of that Act removing that port from the Schedule, with such transitional and saving provisions (if any) as he thinks appropriate having regard to the effect of that removal on the operation of the 1966 Act, or otherwise; and
 - (b) operate so that the 1967 Scheme and also any welfare amenity scheme under Part II of the 1966 Act cease to have any effect in or in relation to that area, subject to such transitional provisions and savings (if any) as may be contained in the order.
- (2) Section 58(2) of the 1966 Act (consultation) does not apply to an order under section 2(3) of that Act, where made by virtue of subsection (1)(a) above.
- (3) As from the Scheme's coming into force in any area, section 51 of the 1966 Act (reference to tribunal of disputes about what is " dock work ") shall not apply to any question relating to work done or to be done in that area.
- (4) Where by virtue of section 5(3) of this Act and orders made under section 11 any description of work done or to be done at premises in a dock labour scheme area is dock work for the purposes of the new Scheme, then except in so far as provision excluding this subsection is made by the Scheme or by an order of the Secretary of State under section 11, it shall be an offence—
 - (a) for a person other than a registered dock employer or the Board to engage a person for employment, or employ him, in either case to do work of that description at those premises ; or
 - (b) subject to subsection (5) below, for a person other than a registered dock worker to do such work there (whether or not under an employer); or
 - (c) for a registered dock worker to do such work there otherwise than under an employer;

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- (d) for a registered dock employer to engage a person for employment, or employ him, in either case to do such work there, unless the person is a registered dock worker;

and a person guilty of an offence under this subsection shall be liable on summary conviction to a fine of not more than £400, or on conviction on indictment to a fine.

- (5) It is not an offence under subsection (4)(b) above for a person to do such work on those premises if, at the time he does the work, he is the employer of some other person also doing it there.
- (6) In subsection (4) above "registered", in relation to a dock worker, means registered under the new Scheme, whether in a main register or an extension register.

13 Financial provisions

- (1) Any sums required by the Secretary of State—
- (a) for making loans to the Board under section 3(3) of this Act, or for making them grants under section 3(4) ;
 - (b) for making payments to and in respect of the chairman and vice-chairman of the Board under paragraph 4 of Schedule 1,
- shall be paid out of money provided by Parliament; and there shall also be so paid any increased administrative expenses of the Secretary of State which are attributable to this Act.
- (2) Sums received by the Secretary of State in pursuance of this Act shall be paid into the Consolidated Fund.