



Dock Work Regulation Act 1976

CHAPTER 79

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ELIZABETH II



Dock Work Regulation Act 1976

1976 CHAPTER 79

An Act to reconstitute the National Dock Labour Board and make further provision for regulating the allocation and performance of the work of cargo-handling in and about the ports of Great Britain. [22nd November 1976]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The National Dock Labour Board

1.—(1) On the appointed day the National Dock Labour Board constituted under the Dock Workers Employment Scheme 1967 is dissolved by virtue of this Act; and on that day there shall come into being a body corporate bearing the same name and having functions conferred by or under this Act. Reconstitution of Board as body corporate.

(2) The new Board shall consist of a chairman, a vice chairman and twelve other members, all appointed by the Secretary of State.

(3) Of those other members eight shall be so appointed on the nomination or re-nomination of the National Joint Council for the Port Transport Industry, four being appointed to represent dock employers and four to represent dock workers.

(4) The remaining four members of the Board, and the chairman and vice-chairman, shall be appointed by the Secretary of State after consultation with the National Joint Council, the Trades Union Congress and the Confederation of British Industry.

(5) Part I of Schedule 1 to this Act has effect with respect to the National Dock Labour Board, its members, staff and administration; and Part II of that Schedule has effect with respect to the transfer of functions, property, etc. from the old Board to the new.

(6) Where an enactment or instrument (statutory or other) passed or made before the appointed day refers to the National Dock Labour Board, it is to be read as referring, as from that day, to the new Board and not the old, except where the context otherwise requires.

**General
duty of the
Board.**

2.—(1) The Board, having regard to the public interest, shall keep under review such economic and industrial developments as appear to them to affect, or be likely to affect, the performance of work classified under this Act as dock work.

(2) In the light of those developments they shall consider—

(a) whether current classifications are satisfactory and, if not, the respects in which they could with advantage be altered;

(b) what (if any) measures should be taken for improving co-operation between dock employers and dock workers and thereby the efficiency with which such work is performed.

(3) They shall also keep under review—

(a) the extent to which the skills, aptitudes and experience of dock workers are adequately deployed, having regard to the amount of such work that is available; and

(b) the need (if any) to adjust the strength and disposition of the labour force;

and they shall submit to the Secretary of State from time to time reports and proposals for action.

(4) In formulating any such proposal, the Board shall examine—

(a) methods of recruitment and training;

(b) in so far as they are of opinion that the labour force exceeds the foreseeable requirement, the ways in which it can be reduced or re-deployed, or other changes can be implemented, without avoidable hardship to the workers concerned; and

(c) the probable cost to employers of implementing the proposal.

(5) In respect of the matters mentioned above in this section, and cognate matters, the Board shall maintain regular consultation with the National Ports Council, and with others appearing to the Board to be concerned.

(6) The Board are responsible for advising the Secretary of State from time to time in respect of those matters, as and when he may seek such advice or the Board think any aspect of them ought to be drawn to his attention; and the Board shall also make their advice available to other persons appearing to them to have an interest.

3.—(1) The Board may borrow such sums as they require for performing their functions— Finances of the Board.

(a) from the Secretary of State; or

(b) with the consent of the Secretary of State, or in accordance with any general authority given by him, from other persons;

and the Board shall not borrow money otherwise than under this subsection.

(2) The aggregate amount outstanding by way of principal of—

(a) money borrowed by the old Board for which the new Board is liable; and

(b) money borrowed by the new Board under this section, shall not exceed £10 million or such greater amount not exceeding £30 million as may be specified by order of the Secretary of State; and no such order shall be made unless a draft of the order has been laid before the House of Commons and approved by resolution of that House.

(3) The Secretary of State may lend to the Board any sums which they have power to borrow, and any such loans shall be repaid by the Board at such times, and in such manner, and interest on the loans shall be paid at such rates and at such times, as he may from time to time direct.

(4) The Secretary of State may make such grants to the Board towards their expenses in pursuance of sections 6 to 10 of this Act (reports and recommendations on classification) as he may determine.

(5) Anything done by the Secretary of State under this section requires the Treasury's approval.

New Dock Labour Scheme

4.—(1) The Secretary of State shall as soon as may be—

(a) prepare in draft, with a view to its being brought into force area by area, a new Dock Labour Scheme to replace the 1967 Scheme;

Secretary of State to prepare new Scheme.

- (b) publish notice that the draft Scheme has been prepared, informing persons interested where they can obtain copies of the draft and giving them at least sixty days in which to make representations to him about it; and
- (c) after making such alterations (if any) as he thinks expedient in the light of representations so made, lay the draft before Parliament.

(2) If the draft Scheme is approved by a resolution of each House, the Secretary of State may make orders bringing it into force (in the form of the draft) for areas designated by the orders, which areas are then to be known as dock labour scheme areas; but the whole of any area so designated must be comprised within a definable dock area.

(3) A definable dock area shall comprise any place in Great Britain which is within half a mile (in a direct line) of a harbour to which this Act applies or of the nearest harbour land adjacent to such a harbour.

(4) For the purposes of this section, "harbour" and "harbour land" have the meanings assigned to them by section 57 of the Harbours Act 1964.

1964 c. 40.

(5) Any premises as to which the Board has reported under section 6 of this Act that work done there is dock work for the purposes of the 1967 Scheme as it applies in any port, or is so treated by custom and practice, are to be treated as part of the definable dock area which includes that port, if not otherwise falling to be so treated under subsection (3) above.

(6) The Secretary of State may, if it appears to him necessary in the light of local circumstances affecting any particular definable dock area, by order extend that area (or, having made in relation to it any one or more previous orders under this subsection, further extend it) by directing the addition to it of any contiguous area.

(7) An order shall not be made under subsection (6) in relation to a definable dock area unless a draft of the order has been laid before Parliament and approved by a resolution of the House.

(8) Schedule 2 to this Act has effect as to the steps which are to be taken by the Secretary of State before making an order under subsection (6) of this section; and where an order under the subsection is laid before Parliament in draft for the purposes of subsection (7) there shall be laid with it—

- (a) a statement by the Secretary of State certifying that Schedule 2 has been complied with; and

- (b) where a public inquiry has been held, a copy of any report and recommendation made by the person who held the inquiry.

5.—(1) Subject to this section, the new Scheme may provide for any of the matters specified in Schedule 3 to this Act. Objects of the new Scheme.

(2) The Secretary of State shall frame the Scheme with a view—

- (a) to securing stability of employment for dock workers and the creation and maintenance of a permanent labour force of a size and composition appropriate for the efficient performance of dock work ; and
- (b) to securing that, wherever the Scheme is in force and subject only to such exceptions as it may provide, dock work is done by registered dock workers and not otherwise.

(3) For the purposes of subsection (2) above and for those of the new Scheme as it has effect in any area, “ dock work ” means the work of individuals (whether or not they are employed by an employer to do it) which, by reference to its description and the premises where it is done, is classified as dock work by an order made by the Secretary of State under section 11 of this Act and for the time being in force.

(4) The work that may be classified is any which—

- (a) is done or to be done at premises in a definable dock area and is within Part I of Schedule 4 to this Act and not within Part II of that Schedule ; or
- (b) whether or not falling within paragraph (a) above, is reported by the Board to the Secretary of State under section 6 below as having been dock work for the purposes of the 1967 Scheme or been so treated by custom and practice.

(5) Any dock workers’ registers established by the Scheme may comprise both main registers and extension registers, and dock workers may under the Scheme be treated differently according to whether they are registered in the one kind of register or in the other ; but the Scheme shall not include provision as to the circumstances in which, in the case of a dock worker on an extension register, his employment can be terminated, or as to his rights on termination of employment.

(6) The Scheme shall not impose any obligations on dock employers who do not employ workers on classified work.

(7) In respect of any of the matters specified in paragraphs 1 to 3 of Schedule 3 to this Act, the Scheme may require dock

employers and dock workers to accept obligations arising under a specified collective agreement (as for the time being in force) although not themselves parties to the agreement; but this is subject to subsection (8) below.

(8) The Scheme shall not include any provision on the following matters—

- (a) the membership or non-membership on the part of a worker of a trade union or of any particular trade union;
- (b) the recognition of trade unions by employers or employers' associations, or any other matter connected with machinery for collective bargaining;

and where an employer recognises an independent trade union in respect of workers of his and there is a collective agreement, negotiated by him or on his behalf, with one or more trade unions including that trade union, which contains provisions regulating the terms and conditions of employment of those workers as to any of the matters mentioned in paragraph 3 of Schedule 3 to this Act, nothing in the Scheme shall have the effect of requiring that employer to observe, in place of those provisions, the provisions of any other collective agreement.

(9) Without prejudice to the above, the Scheme may—

- (a) include such incidental, transitional and commencement provisions as the Secretary of State thinks expedient; and
- (b) contain different provisions for different circumstances and combinations of circumstances.

(10) The Secretary of State may from time to time make orders amending the new Scheme (either generally or in relation to one or more dock labour scheme areas), or altering the boundaries of any such area; and the powers of this section include power to consolidate the whole or any part of the Scheme as amended (with transitional provisions and savings, if any).

(11) Where the Secretary of State has it in mind to make an order under subsection (10) above, he shall publish notice as to the proposed content of the order, informing persons interested where they can obtain copies of the draft and giving them at least sixty days in which to make representations to him about it; and the order shall not be made unless a draft of it has been laid before Parliament and approved by a resolution of each House.

Arrangements for classifying dock work

6.—(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
- (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.

Loading and unloading operations.

7.—(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);

1962 c. 46.

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 ;

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—

1964 c. 40.

- (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.

(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.

Cargo-handling operations in general.

8.—(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—

(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—

1964 c. 40.

(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.

Reference by
Secretary of
State to the
Board.

9.—(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
- (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.—(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. Registration after work is classified.

(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 notwith-

standing 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.

Classification
orders.

11.—(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.

(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.—(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—

Effect of introducing the new Scheme.

- (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;
- (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.

Financial provisions.

13.—(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.

Miscellaneous and general

Continuation of certain statutory exceptions. 1965 c. 62.

14.—(1) Subject to subsection (2) below, section 1 of the Redundancy Payments Act 1965 (rights on termination of employment) shall not apply to any person in respect of his employment as a registered dock worker, unless it is employment by virtue of which he is wholly or mainly engaged in work which is not dock work.

(2) Subsection (1) does not apply where—

- (a) the person became a registered dock worker in consequence of having been employed on work which became classified;
- (b) at the date of the termination of his employment he has been continuously employed since a time before that work was classified; and
- (c) as a result of the termination he ceases to be a registered dock worker.

(3) Subject to any provision of the new Scheme as to circumstances in which a dock worker is to be treated as continuing in the employment of an employer, the provisions of Schedule 1 to the Contracts of Employment Act 1972 (computation of period of employment) and, so far as they modify that Schedule, the

1972 c. 53.

provisions of any order under section 10 of that Act and any regulations under paragraph 30(3) of Schedule 1 to the Trade Union and Labour Relations Act 1974 have effect for the purposes of subsection (2) in determining for what period an employee has been continuously employed; and, for the purposes of that subsection, a person's employment during any period is, unless the contrary is shown, presumed to have been continuous. 1974 c. 52.

(4) Section 31 of the Redundancy Payments Act 1965 (refund of contributions) applies to employees excluded by subsection (1) from entitlement to payments under that Act. 1965 c. 62.

(5) Sections 1 to 8 of the Contracts of Employment Act 1972 (employee's rights under his contract) shall not apply to any registered dock worker except when engaged in work which is not dock work. 1972 c. 53.

(6) The enactments listed below do not apply to employment as a registered dock worker, other than employment by virtue of which the employee is wholly or mainly engaged in work which is not dock work—

(a) Trade Union and Labour Relations Act 1974, Schedule 1, paragraph 4 (right not to be unfairly dismissed);

(b) Employment Protection Act 1975— 1975 c. 71.
section 22 (right to guarantee payment),
section 29 (right to remuneration on suspension on medical grounds),
section 61 (time off to look for work etc.),
sections 64 and 65 (employee's rights etc., on employer's insolvency),
section 70 (written statement of reasons for dismissal), and
sections 99 and 100 (consultation and notification as to redundancy).

(7) The Secretary of State may by order vary or revoke any of the provisions of subsections (1), (5) and (6) above; such an order may contain such transitional and other supplemental and incidental provisions as appear to him to be expedient.

No such order shall be made unless a draft of it has been laid before Parliament and approved by a resolution of each House.

(8) In this section—

“dock work”, in relation to a dock worker registered under the 1967 Scheme, means the same as in that Scheme and in relation to one registered under the new Scheme

means any work which, by reference to what it is or where it is done, is classified ; and

“ registered ”, in relation to a worker who is registered under the new Scheme, means registered in a main register thereunder, and not in an extension register.

- Interpretation. **15.**—(1) In this Act, unless the context otherwise requires—
- 1966 c. 28. “ the 1966 Act ” means the Docks and Harbours Act 1966 ;
 “ definable dock area ” has the meaning given by section 4 ;
 “ collective agreement ” means an agreement or arrangement made by or on behalf of one or more trade unions and one or more employers or employers’ associations and relating to one or more of the matters specified in section 29(1) of the Trade Union and Labour Relations Act 1974, and “ collective bargaining ” means negotiations relating to or connected with one or more of those matters ;
- 1974 c. 52. “ classified ” means classified as dock work for the purposes of the new Scheme by means of orders under section 11 of this Act, and “ classification ” and “ de-classification ” are to be construed accordingly ;
 “ dock labour scheme area ” means an area designated by an order under section 4(2) as one for which the new Scheme is to be in force (with or without alteration by amending order under section 5(10)) ;
- 1964 c. 40. “ harbour ” has the same meaning as in the Harbours Act 1964 ;
 “ independent trade union ” has the same meaning as in the Trade Union and Labour Relations Act 1974 ;
 “ the Board ” means the National Dock Labour Board constituted by section 1 (being also referred to in this Act as “ the new Board ”) ;
 “ the old Board ” means the National Dock Labour Board constituted under the 1967 Scheme and dissolved by section 1 ;
 “ premises ” includes any place ;
 “ recognised ” in relation to a trade union means (and cognate expressions shall be construed accordingly) recognised by an employer, to any extent, for the purpose of collective bargaining, and a union shall be treated as so recognised if the Advisory Conciliation and Arbitration Service has made a recommendation for such recognition under the Employment Protection Act 1975 which is operative within the meaning of section 15 of that Act ;
- 1975 c. 71.

“registered” (subject to sections 12(6) and 14(8)) means registered under the 1967 Scheme or under the new Scheme ;

“the 1967 Scheme” means the scheme made under the Dock Workers (Regulation of Employment) Act 1946 1946 c. 22. and set out (as varied) in Schedule 2 to the Dock Workers (Regulation of Employment) (Amendment) Order 1967 S.I. 1967 No. 1252. ;

“the new Scheme” means the Scheme to be made and brought into force by the Secretary of State under section 4 of this Act ; and

“subsidiary” has the same meaning as in the Transport Act 1962 1962 c. 46..

(2) Anything which by this Act is required to be published by the Secretary of State may be published by him in the London or Edinburgh Gazette (or both) or by such alternative or additional means as the Secretary of State thinks expedient for the purpose of informing the persons, organisations and authorities concerned with the subject matter of the publication.

(3) For purposes of this Act, a company is an associated company of another if—

- (a) either one of them (directly or indirectly) has control of the other ; or
- (b) both of them are companies of which a third person (directly or indirectly) has control.

16.—(1) Orders under this Act shall be made by statutory Orders. instrument ; and such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament unless it is made under section 3(2) or 17(1), or it consists or is comprised in an order a draft of which has been laid before Parliament under this Act and approved by a resolution of each House.

(2) It shall be conclusive that an order is made in accordance with subsection (2) or (3) of section 11 if it contains a statement by the Secretary of State that it is so made, identifying the relevant report or recommendation by the Board.

(3) An order under section 14(7) may be varied or revoked by a subsequent order under that subsection ; orders under any other provision of this Act may be revoked by a subsequent order of the Secretary of State if he is satisfied that, being superseded by a later order, it no longer has any practical effect.

17.—(1) This Act shall come into force on a day appointed Commence- by the Secretary of State by order ; and different days may be ment and so appointed for different provisions of the Act. repeals.

(2) In sections 1, 6 and 7 of this Act, and in Schedule 1, “ the appointed day ” means whatever day is appointed by such an order for the coming into force of the particular section or Schedule.

(3) As soon as the Secretary of State is satisfied that the 1967 Scheme is no longer in operation for any part of Great Britain, he may by order repeal, as from such date as may be specified by the order, any or all of the following, namely—

- 1946 c. 22. (a) the Dock Workers (Regulation of Employment) Act 1946 ;
- 1966 c. 28. (b) Parts I and II of the Docks and Harbours Act 1966 ;
and
- (c) any other enactment contained in the 1966 Act which appears to the Secretary of State to be spent, or no longer necessary, in consequence of this Act or those repeals,

with such transitional provisions or savings (if any) as the Secretary of State thinks appropriate ; and in the case of any enactment repealed by an order under this subsection, section 38 of the Interpretation Act 1889 (effect of repeals) shall apply as if the repeal of that enactment were effected by this Act as from the date specified by the Secretary of State’s order.

1889 c. 63.

(4) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Citation and
extent.

18.—(1) This Act may be cited as the Dock Work Regulation Act 1976.

(2) This Act, except section 1(6), does not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 1(5).

REPLACEMENT OF OLD DOCK LABOUR BOARD BY NEW BOARD

PART I

CONSTITUTION, ADMINISTRATION ETC. OF NEW BOARD

Membership

1.—(1) A person shall hold or vacate office as chairman, vice-chairman or other member of the Board in accordance with the terms of the instrument appointing him.

(2) A member shall be appointed for such period, not exceeding two years, as the Secretary of State may determine; and the appointment of a member who fills a casual vacancy shall be for the unexpired period of his predecessor's appointment.

2. A person may at any time resign office as chairman, vice-chairman or other member of the Board.

3.—(1) The Secretary of State, if satisfied in the case of any member, that—

- (a) he has been absent from meetings of the Board for a period of longer than six months without permission of the Board; or
- (b) he has become bankrupt or has made an arrangement with his creditors (or, in Scotland, sequestration of his estate has been awarded or he has made a trust deed for behoof of his creditors or a composition contract); or
- (c) he is incapacitated by physical or mental illness; or
- (d) he is otherwise unable or unfit to discharge the functions of a member of the Board,

may remove that member from office and declare his place on the Board to be vacant.

(2) Before removing a member on any of those grounds, the Secretary of State shall, in the case of a member appointed on the nomination of any organisation, inform that organisation of his intentions with regard to that member.

Remuneration etc. of members

4.—(1) The Secretary of State may—

- (a) pay to the chairman and vice-chairman of the Board such salaries and fees, and such allowances, as he may determine; and
- (b) in the case of any such person who is or has been chairman or vice-chairman of the Board as he may determine, make provision for, or pay to or in respect of that person, such pensions, allowances and gratuities as he may determine.

(2) If a person ceases to be chairman or vice-chairman of the Board and it appears to the Secretary of State that there are special

SCH. 1

circumstances which make it right that the person should receive compensation, the Secretary of State may pay to that person such sum as he may determine.

(3) The approval of the Minister for the Civil Service shall be required for any determination by the Secretary of State under this paragraph.

5.—(1) In the case of Board members other than the chairman and vice-chairman, the Board may pay to them fees and allowances in accordance with such scales and rates as the Board may determine.

(2) These scales and rates must be approved by the Secretary of State, and that approval be given with the consent of the Minister for the Civil Service.

Staff

6.—(1) The Board may appoint and pay such officers and servants as appear to them necessary for the performance of their functions.

(2) The Board shall, in the case of such of the persons employed by them as they may determine, pay such pensions, allowances or gratuities to or in respect of them as they may determine, make such payments towards the provision of such pensions, allowances or gratuities as they may determine or provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities as they may determine.

Procedure etc.

7.—(1) The procedure and quorum of the Board shall be such as they may from time to time determine.

(2) The decision of the Board shall be the decision of a majority of the members present and voting at a meeting of the Board.

8. The validity of any proceedings of the Board shall not be affected by any defect in the appointment of a member or a vacancy in the office of chairman or vice-chairman, or among the members.

9. A document purporting to be duly executed under the seal of the Board, or to be signed on behalf of the Board, shall be received in evidence and shall be deemed to be so executed or signed unless the contrary is proved.

Annual accounts and report

10. It shall be the duty of the Board—

- (a) to keep proper accounts and proper records in relation thereto ;
- (b) to prepare in respect of each accounting year a statement of accounts in such form as the Secretary of State may with Treasury approval direct ; and
- (c) to submit the accounts and statement for audit by auditors appointed by the Secretary of State on such terms and conditions as he may determine.

11.—(1) A person is not qualified to act as auditor of the Board unless he is a member of one of the following bodies— SCH. 1

- (a) the Institute of Chartered Accountants in England and Wales ;
- (b) the Institute of Chartered Accountants of Scotland ;
- (c) the Association of Certified Accountants ;
- (d) the Institute of Chartered Accountants in Ireland ;
- (e) any other body of accountants established in the United Kingdom and for the time being recognised by the Secretary of State for the purposes of section 161(1)(a) of the Companies Act 1948,

1948 c. 38.

or is a person for the time being authorised under section 161(1)(b) of that Act as having similar qualifications obtained outside the United Kingdom.

(2) A Scottish firm may act as auditor of the Board only if every partner of the firm is qualified so to act.

12.—(1) The Board shall, as soon as practicable after the end of each accounting year, make to the Secretary of State a report on the performance of their functions during the year and include in their report a reference to any specific matters on which he may have requested to be informed.

(2) The Board's report in respect of any year shall be accompanied by a copy of their statement of accounts for that year, and a copy of the auditors' report on the accounts.

(3) There shall also be included in the Board's report for the year details—

- (a) of the remuneration paid to members of the Board for their services during the year ; and
- (b) of the number of officers and servants employed as on the last day of that year.

(4) The Secretary of State shall lay before each House of Parliament a copy of the Board's report, together with copies of their statement of accounts and the auditors' report on the accounts.

PART II

TRANSITIONAL PROVISIONS

Functions, property, contracts and proceedings

13. Without prejudice to section 1(6) of this Act—

- (a) any functions of the old Board under the 1967 Scheme or otherwise shall, as from the appointed day be functions of the new Board ;
- (b) anything begun by, to or before the old Board before that day may on and after that day be continued by, to or before the new Board.

14.—(1) On the appointed day all the property, rights, liabilities and obligations which were, immediately before that day, the

SCH. 1 property, rights, liabilities and obligations of the old Board are, by virtue of this Act, transferred to the new Board.

1948 c. 38. (2) If immediately before the appointed day a company incorporated under the Companies Act 1948 is trustee for the old Board in respect of property, rights or otherwise, all such powers and duties as were then exercisable by, or imposed on, that company and its members in relation to the old Board shall as from that day continue exercisable or imposed (as the case may be) in relation to the new Board instead of the old.

15.—(1) Every agreement, whether in writing or not, including any agreement for the performance of personal services, to which the old Board were a party immediately before the appointed day, shall have effect on and after that day as if the new Board had been a party to the agreement and for any reference to the old Board there were substituted, as respects anything falling to be done or occurring on or after that day, a reference to the new Board.

(2) Any other agreement (whether in writing or not) or document referring to the old Board shall be construed in accordance with the provisions of sub-paragraph (1) above as far as they are applicable.

16. In any legal proceedings pending immediately before the appointed day by or against the old Board and continued on or after that day, the new Board shall on and after that day be substituted for the old Board as a party to the proceedings.

Employees

1972 c. 53. 17.—(1) For the purposes of computing the period of employment of any person (other than a dock worker registered under the 1967 Scheme) who, immediately before the appointed day, was an employee of the old Board and by virtue of paragraph 15(1) above becomes an employee of the new Board on that day, the provisions of Schedule 1 to the Contracts of Employment Act 1972 shall apply as if the old Board and the new Board were one employer.

(2) The references to that Schedule in—

1965 c. 62. (a) section 8(2) of, and paragraphs 1 and 9 of Schedule 1 to, the Redundancy Payments Act 1965 ;

1974 c. 52. (b) paragraph 30 of Schedule 1 to the Trade Union and Labour Relations Act 1974 ; and

1975 c. 71. (c) section 126(5) of the Employment Protection Act 1975, shall, for the purposes of any provisions of those Acts as they may from time to time apply to any such person as is mentioned in sub-paragraph (1) above, be construed as references to that Schedule applied as provided by that sub-paragraph.

Section 4(8).

SCHEDULE 2

PROCEDURE BEFORE MAKING EXTENSION ORDER UNDER S. 4(6)

1. Where the Secretary of State proposes to make an order extending or further extending a definable dock area, he shall refer

the proposal to the Board and invite them to report to him with their opinion and advice on it. SCH. 2

2. He shall also publish the fact that he has referred the proposal, and the manner in which the area in question is proposed to be extended—

- (a) in at least one national newspaper and at least one news paper circulating in and around the area proposed to be extended, and
- (b) without prejudice to section 15(2) of this Act, in such other ways as he thinks most appropriate for bringing the proposal to the notice of the persons likely to be affected by an implementation of it.

3. The Secretary of State shall allow at least 60 days for representations to be made to him (by the Board and others) with regard to the proposal, and shall consider any representations that are made.

4.—(1) For the purpose of determining whether to proceed with the proposal, the Secretary of State may cause a public inquiry to be held; and he shall cause such an inquiry to be held if it appears to him, from representations made by the Board and others, that there are objections to the proposal (other than objections appearing to him to be merely frivolous).

(2) Any such inquiry shall be held by a person appointed by the Secretary of State from among persons appearing to him to be impartial as respects the subject matter of the inquiry; and the person so appointed shall report his findings to the Secretary of State, together with such recommendations (if any) as he thinks it right to make.

(3) In relation to any inquiry held for the purposes of this paragraph, section 250(2) and (3) of the Local Government Act 1972 1972 c. 70. (power to require witnesses' attendance etc.) apply as they do in relation to a local inquiry held under section 250(1) of that Act.

SCHEDULE 3

Section 5(1).

MATTERS FOR NEW DOCK LABOUR SCHEME

1. The establishment of dock workers' and dock employers' registers; the obligations and rights of registered dock workers and other dock workers who, though not registered, do work which is classified; the obligations and rights of dock employers in relation to dock workers and dock work; the consequences attending any breach of such obligation or, as the case may be, any denial of such rights; appeal in disciplinary matters (that is to say, such matters as are dealt with in paragraphs 14A to 18 of the 1967 Scheme); termination and suspension of registration.

2. Recruitment of dock workers; regulation of the means by which they are taken into employment and allocated to dock work; termination of employment, and rights and liabilities in respect of it.

SCH. 3

3. The following matters relating to dock workers and their work—
 - (a) remuneration, hours of work (including weekly periods of rest and holidays with pay), welfare and training ;
 - (b) benefits for sickness and injury ;
 - (c) pension schemes, contributions to such schemes by workers and employers, and pension benefits for widows and dependants.
4. The establishment and collection of a levy payable by dock employers (with a maximum rate or maximum rates of levy prescribed by the Scheme), with a view to the provision of finance for the Board and defraying the cost of operating the new Scheme.
5. The imposition by the Board on dock employers of a requirement to furnish to the Board, as and when called upon to do so, statistical and other information on such matters as are specified by the Scheme, being information required by the Board for the effective operation of the Scheme.
6. Establishment of local boards (for areas to be determined by the Board), with functions delegated to them by the Board and other functions connected with the operation of the Scheme.

Section 5(4).

SCHEDULE 4

DESCRIPTIONS OF WORK WHICH MAY, AND THOSE WHICH MAY NOT,
BE CLASSIFIED AS DOCK WORK

PART I

WORK WHICH MAY BE CLASSIFIED

General port work

1. Handling cargo. This includes any movement of cargo by means of man-power, machinery or lighterage ; it also includes stuffing and stripping containers.
2. Loading and unloading cargo.
3. Work in connection with the storage or warehousing of cargo.
4. Sorting, checking and recording cargo ; recording the time spent in handling, loading or unloading cargo.
5. Executing minor repairs to containers, crates, boxes, pallets or other articles used for packing or loading and unloading cargo.
6. Preparing ships for the receipt or discharge of cargo.
7. Making ships ready for departure after loading or discharging cargo.

Supplementary definitions

8. For the purposes of this Schedule, the following definitions apply—

- (a) "cargo" means goods which are, or are to be, or have been, loaded as cargo in a ship (whether or not in containers) and
 - (i) does not include a passenger's personal baggage carried on board by him,

- (ii) includes anything which has been taken on board a ship from the sea or the sea-bed with a view to its being discharged to shore ;
- (b) goods which are to be, or have been, loaded as cargo in a ship are "cargo" at all times when they are within a definable dock area ; and
- (c) "ship" means a sea-going ship capable of carrying cargo (but not including any in whose case cargo-carrying is an abnormal or exceptional use).

SCH. 4

PART II

WORK EXCLUDED FROM CLASSIFICATION

9. The work of persons employed by a body corporate established by or under an enactment for the carrying on of an industry or part of an industry or undertaking under national ownership or control, or by any subsidiary of a body corporate so established.

But this paragraph does not refer to the work of persons employed—

- (a) by the British Transport Docks Board, or any subsidiary of that Board ;
- (b) by the British Waterways Board (or a subsidiary of it) for the purposes of the Board's functions under section 10(1)(b) of the Transport Act 1962 (provision of port facilities).

1962 c. 46.

10. The work of persons employed in a retail, wholesale, manufacturing or other business, at premises occupied for the purposes of that business, where the work is mainly or exclusively with goods owned or produced by the owners of the business or a company which in relation to the owners is an associated company.

11. Driving any vehicle whose use is mainly on public roads, whether inside or outside any definable dock area ; supervision of loading and unloading such a vehicle ; seeing to the security of its load.

12. Such work on a ship as by local custom or usage is left to seamen on the ship.

13. The ordinary work of those forming the crew of a fishing vessel ; the unloading of fishing vessels which either—

- (a) are less than 25 metres in length (as calculated for the purposes of registration under the Merchant Shipping Acts) and are not ordinarily at sea for more than six days at a time ; or
- (b) are of that length or greater, and are not ordinarily at sea for more than three days at a time.

14. The ordinary work of those manning a vessel (not a sea-going ship) which either—

- (a) is mainly or exclusively used to carry goods to or from premises not situated within a definable dock area ; or

SCH. 4

- (b) is mainly or exclusively used to carry goods to or from premises occupied for the purposes of a business and—
- (i) is owned or operated by the occupier of the premises and manned only by his employees, and
 - (ii) is used mainly or exclusively to carry goods owned or produced by him.

In sub-paragraph (b) above references to the occupier of premises include any company which in relation to him is an associated company.

15. Any work at a site for the bulk storage (in fixed installations) of crude liquid petroleum, natural gas, liquid products derived either from crude liquid petroleum or natural gas or both, liquid chemicals or liquefied gases.

Any work at a site for piping any of those substances to and from ships or other vessels.

1949 c. 67.

16. Any work done at an aerodrome licensed under Part II of the Civil Aviation Act 1949 which is connected with the loading or unloading of aircraft.

Section 8(3).

SCHEDULE 5

PROCEDURE FOR RECOMMENDATION UNDER SECTION 8

PART I

PRELIMINARY CONSULTATIONS

1. The Board shall not entertain proposals for a recommendation under section 8 of this Act unless the first notice for the purpose of that section has been given—

- (a) to all those who are, or are to be, employers of workers on the relevant work ; and
- (b) to any trade union which is recognised by such an employer in respect of those workers,

and the Board shall take reasonable steps to ascertain whether any, and if so which, trade union is so recognised.

2. That notice is one which—

- (a) specifies the relevant work and states that the Board consider it to be within Part I of Schedule 4 to this Act and not within Part II of that Schedule ;
- (b) specifies the premises where (as it appears to the Board) work is being done some or all of which the Board may consider recommending for classification as dock work ;
- (c) specifies a date (not earlier than 42 days from the date of the notice) by which, if the recipient of the notice wishes to make representations to the Board with regard to it, he should make such representations ; and
- (d) states, either in summary or extended form, the effect of sections 8, 10 and 11.

3. The first notice shall invite any employer to whom it is addressed to inform the Board— SCH. 5

- (a) whether any trade union is recognised by him in respect of workers on the relevant work ;
- (b) whether any trade union is recognised by him in respect of workers employed by him (at the premises in question or elsewhere) to do any other description of work within Part I of Schedule 4 to this Act and not within Part II of that Schedule,

giving in either case the name of the trade union.

4. Where the Board are unable, after reasonable enquiries, to ascertain who is the employer in relation to the relevant work, it is sufficient compliance with paragraphs 1 to 3 above if the Board cause to be posted, in a prominent position at or near the premises where it appears to them that the relevant work is being done, a notice to the effect specified for the first notice in paragraphs 2 and 3 above.

5. If in response to the first notice (or to a notice posted as under paragraph 4) an employer names a trade union which he recognises, the Board shall, if that union has not already been notified, notify it in writing that, in the case of the relevant work (specifying it), the Board have under consideration a proposal to recommend that it, or some part of it, be classified as dock work.

6. The Board shall consider any representations made to them by or on behalf of persons to whom the first notice has been addressed and any other persons (including in particular any trade union notified under paragraph 5) who appear to them to be concerned with the subject matter of the proposed recommendation.

7.—(1) If after considering such representations the Board determine that there are prima facie grounds for making a recommendation under section 8 of this Act in respect of the relevant work or any part of it, they shall give written notice (the second notice) to all those who have made such representations, and to such other persons (if any) as they consider to be concerned with the subject matter of the proposed recommendation in any respects that entitle them to be kept informed with respect to it.

(2) The second notice shall—

- (a) specify the work which the Board would recommend for classification as dock work and what (if any) of the relevant work they are not minded so to recommend ;
- (b) invite further representations from persons to whom the notice is addressed ; and
- (c) state what proposals the Board have it in mind to make under section 10 of this Act.

(3) Any representations received in response to the second notice shall be considered by the Board.

SCH. 5

8.—(1) If, at any time when the Board have under consideration proposals for a recommendation under section 8 of this Act, an express objection to the classification of any work as dock work is made by a qualified independent trade union, the Board shall not proceed further in relation to that work unless the objection is withdrawn.

(2) A trade union is qualified to make such an objection if—

- (a) it is recognised by the employer in respect of workers on that work ; and
- (b) it appears to the Board to have been so recognised by the employer and his predecessors at all times since 18th September 1967.

In determining whether at some earlier date a trade union was recognised in respect of workers on the same work as that in relation to which the objection is now made, the following factors are not conclusive that work is not the same, that is to say, the fact that there has been a change in the methods by which the work is carried out, or that the business carrying it out has moved to new premises.

(3) Where an objection is made under this paragraph, the Board shall give written notice of that fact to all those to whom the second notice was given, or, as the case may be, to whom a second notice would have been given had the Board proceeded to give one.

PART II

THE BOARD'S RECOMMENDATION AND ASSOCIATED ACTION

The recommendation

9.—(1) The Board shall not determine to make a recommendation to the Secretary of State in the case of the relevant work or any part of it—

- (a) if more than 12 months have elapsed since the first notice was given to employers of workers on the relevant work ; nor
- (b) unless and until they are satisfied that each of the persons to whom the second notice was given has had at least 28 days in which to consider it.

(2) Sub-paragraph (1)(a) does not prevent the Board giving the first notice again (whether or not the 12 months have elapsed), and proceeding to a recommendation under section 8—

- (a) if they are satisfied that there has been a material change of circumstances since the first notice was previously given, or
- (b) if a previous notice met with an objection under paragraph 8 which has since been withdrawn.

10. If the Board determine to make the recommendation they shall give notice of the determination to all those persons to whom the second notice was given.

11.—(1) The Board's recommendation to the Secretary of State shall— SCH. 5

- (a) be in writing ; and
- (b) specify all the persons to whom the first and second notices were given and when ; and
- (c) record for the Secretary of State all such representations as were made to the Board in response to either notice, or otherwise in relation to the matters at issue.

(2) The Board shall send a copy of their recommendation to all those to whom the second notice was given.

Associated action

12.—(1) On receiving the Board's recommendation, the Secretary of State shall satisfy himself that the procedure required by Part I of this Schedule has been adequately complied with.

(2) If not so satisfied, or if of opinion that he has not enough information to justify him in acting on the recommendation, he may require the Board to carry out such further examination of the matters dealt with in the recommendation as he may specify, and to report to him within a specified period the outcome of that examination.

(3) He shall, if he thinks it expedient with a view to informing the public generally that the Board have made the recommendation, and to obtaining the views of persons and organisations not so far consulted, publish the recommendation.

13. If the Secretary of State, in consequence of representations made to him, or of matters brought to his notice by the Board, considers—

- (a) that the subject matter of the Board's recommendation is such that the decision by him to make an order on it, or not to make one, may tend to prejudice good labour relations ; and
- (b) that there are questions which need to be investigated by the Advisory, Conciliation and Arbitration Service,

he may refer those questions to that Service, for their opinion and advice.

SCHEDULE 6

Section 17(4).

REPEALS

Chapter	Short Title	Extent of Repeal
1965 c. 62.	Redundancy Payments Act 1965.	Section 16(1).
1972 c. 53.	Contracts of Employment Act 1972.	Section 9(1).
1974 c. 52.	Trade Union and Labour Relations Act 1974.	Schedule 1, paragraph 9(1)(c).
1975 c. 71.	Employment Protection Act 1975.	Section 119(3).

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