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SCHEDULES

SCHEDULE 5

Section 8(3).

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—
 - (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.

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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.

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.

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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—
- (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—

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- (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.