

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 circumstances which make it right that the

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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—
- (a) the Institute of Chartered Accountants in England and Wales ;
 - (b) the Institute of Chartered Accountants of Scotland;
 - (c) the Association of Certified Accountants ;

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- (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,
- 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 then-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 property, rights, liabilities and obligations of the old Board are, by virtue of this Act, transferred to the new Board.
 - (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

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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

- 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—
- (a) section 8(2) of, and paragraphs 1 and 9 of Schedule 1 to, the Redundancy Payments Act 1965 ;
 - (b) paragraph 30 of Schedule 1 to the Trade Union and Labour Relations Act 1974 ; and
 - (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.

SCHEDULE 2

Section 4(8).

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.
- 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

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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 (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.
- 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.

SCHEDULE 4

Section 5(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).

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).
- 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 seagoing ship) which either—
- (a) is mainly or exclusively used to carry goods to or from premises not situated within a definable dock area ; or
 - (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.
- 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.

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.
- 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

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- (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.

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

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- (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—
 - (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.

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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).