

ELIZABETH II



Dockyard Services

Act 1986

1986 CHAPTER 52

An Act to make provision in connection with any arrangements that may be made by the Secretary of State for or with a view to the provision by contractors of certain dockyard services. [25th July 1986]

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:—

1.—(1) This section applies in relation to such services for or in connection with ships or vessels or related establishments in the service of the Crown, provided at such dockyards, as may, in accordance with subsection (12) below, be designated by the Secretary of State by order; and in this section, in relation to a designated dockyard—

Transfer of persons engaged in dockyard services.

“the dockyard undertaking” means the provision by the Crown of designated dockyard services at the dockyard; and

“the qualified dockyard service employees” means the persons employed in or in connection with the dockyard undertaking in the civil service of the Crown on such day as the Secretary of State appoints by order.

(2) If, as regards a designated dockyard, the Secretary of State makes arrangements—

(a) for a company to provide designated dockyard services at the dockyard under contract with him, and

(b) for that or another company—

(i) to become the employer of such of the qualified dockyard service employees at the dockyard as are employees to whom the arrangements apply, and

(ii) to acquire from him rights in or over the dockyard or any part of it and any property used for the purposes of the dockyard undertaking,

with a view to their services and that property being made available for the provision of the designated dockyard services at the dockyard,

subsections (4) to (11) below shall have effect in relation to the employees to whom the arrangements apply.

(3) The arrangements made by the Secretary of State as regards a designated dockyard may include the formation of a company with a view to, or for any purpose of, the provision of designated dockyard services at the dockyard.

S.I. 1981/1794. (4) The Transfer of Undertakings (Protection of Employment) Regulations 1981 shall, subject to subsection (5) below, apply to the transfer of the dockyard undertaking or any part of it whether or not, apart from this provision, the undertaking would be treated as an undertaking in the nature of a commercial venture for the purposes of those Regulations, and, for those purposes, the services of the qualified dockyard service employees together with the rights in or over the dockyard and property used for the purposes of the undertaking shall be treated as a part of that undertaking capable of being transferred as a business whether or not the company which is to become their employer also provides designated dockyard services.

(5) The Transfer of Undertakings (Protection of Employment) Regulations 1981, in their application to the transfer of the dockyard undertaking or any part of it, shall have effect as if, for regulation 10 (duty to inform and consult trade union representatives), there were substituted the provisions of subsections (6) to (9) below, and (unless the remedy provided by section 2 is invoked) the remedies by way of complaint to an industrial tribunal provided for by, and the other provisions of, regulation 11 shall be available and shall apply in relation to those subsections as they would in relation to regulation 10 or any corresponding provision of it.

(6) Long enough before the transfer to enable consultations to take place between the Secretary of State and the representa-

tives of the independent trade unions recognised by him in respect of the employees, the Secretary of State shall, in accordance with subsection (13) below, inform those representatives of—

- (a) the fact that the transfer is to take place, when approximately it is to take place, and the reasons for it;
- (b) the legal, economic and social implications of the transfer for the employees;
- (c) the measures which he envisages he will, in connection with the transfer, take in relation to those employees or, if he envisages that no measures will be so taken, that fact; and
- (d) the measures which the company which is to become their employer envisages that it will, in connection with the transfer, take in relation to those employees or, if the company envisages that no measures will be so taken, that fact.

(7) The company which is to become their employer shall give to the Secretary of State such information at such a time as will enable him to perform the duty imposed on him by virtue of subsection (6)(d) above.

(8) The Secretary of State, where he envisages that he will, in connection with the transfer, be taking measures in relation to employees in respect of whom an independent trade union is recognised by him, shall enter into consultations with the representatives of the trade unions and in the course of those consultations shall—

- (a) consider any representations made by the trade union representatives, and
- (b) reply to those representations, and, if he rejects any of those representations, give his reasons.

(9) If in any case there are special circumstances which render it not reasonably practicable for the Secretary of State to perform a duty imposed on him by subsection (6) or (8) above, he shall take all such steps towards performing that duty as are reasonably practicable in the circumstances.

(10) Where in pursuance of the arrangements referred to in subsection (2)(b) above a company is to become the employer of any person none of the agreed redundancy procedures applicable to persons employed in the civil service of the Crown shall apply to him.

(11) Where in pursuance of the arrangements referred to in subsection (2)(b) above—

- (a) a person ceases to be employed in the civil service of the Crown on becoming employed by a company, and

(b) he would not have so ceased if it were not for those arrangements,

1972 c. 11.

he shall not, on so ceasing, be treated for the purposes of any scheme under section 1 of the Superannuation Act 1972 as having retired on redundancy.

(12) The power to make an order under subsection (1) above is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and the dockyards that may be designated by such an order are those dockyards which are Royal Dockyards when this Act comes into force.

(13) In this Act—

“company” means a company formed under the Companies Acts and “formed”, with reference to the purposes of a company, includes the alteration of its objects;

1985 c. 6.

1948 c. 38.

“the Companies Acts” means the Companies Act 1985, the Companies Act 1948 or any Act repealed by that Act of 1948;

“designated”, with reference to a dockyard or services, means designated under subsection (1) above; and

“dockyard contractor” means a company which for the time being provides services which are designated dockyard services at a designated dockyard under contract with the Secretary of State or, by making the services of employees or property available, enables those services to be provided, whether by a company or by the Secretary of State;

1974 c.52 .

“trade union” and “independent trade union” have the same meaning as in the Trade Union and Labour Relations Act 1974 and “recognised”, in relation to an independent trade union, means recognised to any extent for the purpose of collective bargaining (within the meaning of the Employment Protection Act 1975);

1975 c. 71.

and any information which is to be given to the representatives of a trade union shall be delivered to them or sent by post to an address notified by them to the employer, or sent by post to the union at the address of its head or main office.

Failure to inform or consult trade unions: High Court and Court of Session remedies.

2.—(1) A trade union as respects which the Secretary of State has a duty under section 1(6) or (8) above to give information or enter into consultations may, where it alleges that the Secretary of State has failed to fulfil that duty, bring an action in the High Court for a declaration as to whether or not he has failed to fulfil that duty, and the Court may make a declaration accordingly.

(2) In Scotland, a trade union as respects which the Secretary of State has a duty under section 1(6) or (8) above to give informa-

tion or enter into consultations may, where it alleges that the Secretary of State has failed to fulfil that duty, raise an action in the Court of Session for a declarator as to whether or not he has failed to fulfil that duty, and the Court may make a declarator accordingly.

(3) No proceedings may be brought under this section if a complaint to an industrial tribunal has been made under the provisions applied by section 1(5) above.

3.—(1) All the land in a designated dockyard shall, whatever the respective rights in or over any part of it of the Secretary of State and a dockyard contractor, be treated for the purposes of—

(a) section 3 of the Special Constables Act 1923 (appointment of constables in respect of Her Majesty's dockyards),

(b) Part II of the Military Lands Act 1892 (byelaws for lands under the management of Secretary of State used for service purposes), and

(c) the General Rate Act 1967 or, in Scotland, the Valuation Acts (under which rates are levied except on land occupied by or on behalf of the Crown for public purposes),

Provisions as regards premises used for transferred services.
1923 c. 11.
1892 c. 43.
1967 c. 9.

as land or, in Scotland, land or heritages under the control or management of the Secretary of State or the Defence Council, or occupied on behalf of the Crown, for naval, military or air force purposes or the purposes of his department or for public purposes, as the case may be, and all instruments, authorities, powers and privileges subsisting under those enactments at the commencement of this Act shall (until revoked) continue in force accordingly.

(2) Part II of the Landlord and Tenant Act 1954 (security of tenure for business tenants) shall not apply to any tenancy granted to a dockyard contractor in respect of any land in a designated dockyard.

1954 c. 56.

4. There shall be paid out of money provided by Parliament any expenses of the Secretary of State—

Expenses of Secretary of State.

- (a) incurred in connection with the formation of any company formed with a view to, or for any purpose of, the provision of designated dockyard services at a designated dockyard or the operation of any such company wholly owned by the Secretary of State; or
- (b) incurred in assuming responsibility for any liabilities of that company or any other company which is or has been a dockyard contractor arising out of the provision of designated dockyard services or to or in respect of persons employed or formerly employed in or in connection with the provision of those services.

Short title and
commence-
ment.

5.—(1) This Act may be cited as the Dockyard Services Act 1986.

(2) This Act shall come into force at the end of the period of two months beginning with the day on which it is passed.

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