



# Docks and Harbours Act 1966

## 1966 CHAPTER 28

### PART I

#### CONTROL OF EMPLOYMENT OF DOCK WORKERS

##### *Compensation of employers*

### 13 Compensation for refusal, etc., of licence

- (1) Subject to the provisions of this and the two next following sections, if an application for a licence made before the commencement of section 1 of this Act or a subsequent application for the renewal of a licence made by the holder of a licence is refused, the applicant shall be entitled to receive from the licensing authority compensation computed in accordance with the following provisions of this section in respect of—
  - (a) any diminution in the value of the assets of his dock business in the port to which the application relates; and
  - (b) any expenditure, other than payments of income tax (including surtax), capital gains tax or corporation tax, incurred in winding up his dock business in that port,which is directly attributable to the refusal.
- (2) Subject as aforesaid, if a person who was both a registered employer and a registered dock worker immediately before the commencement of section 1 of this Act is not granted a licence before the commencement of that section, he shall, notwithstanding that he has made no application for a licence, be entitled to compensation computed in accordance with the following provisions of this section in respect of any such diminution or expenditure as aforesaid which is directly attributable to the omission to grant him a licence.
- (3) The amount of compensation payable under this section in respect of the diminution in value of the assets of a person's dock business shall be an amount equal to the difference between their market value immediately before the refusal or omission to grant a licence and their market value immediately after the refusal or omission; and the market value immediately before the refusal or omission shall be computed—

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- (a) in the case of a refusal or omission before the commencement of section 1 of this Act, on the assumption that this Part of this Act had not been enacted ; and
  - (b) in the case of a subsequent refusal to renew a licence, on the assumption that the licence would have been renewed on the same terms as before, but without any condition as to the number of dock workers to be employed by the holder of the licence.
- (4) No compensation shall be given in respect of any expenditure incurred in winding up a person's dock business, in so far as that expenditure is taken into account in computing the amount of compensation payable to him under the last foregoing subsection.
- (5) For the purposes of subsection (3) of this section a refusal or omission to grant a licence before the commencement of section 1 of this Act shall be treated as taking place on the date on which notice is given of the final decision on all applications for licences and proposals for the port in question, and a refusal to renew a licence after the commencement of that section shall be treated as taking place on the date on which notice is given of the final decision on the application for the renewal of the licence.
- (6) In this section—
- " assets " means assets of any description, including goodwill ;
  - " market value ", in relation to any assets, means the amount which they would have fetched if sold in the open market by a willing seller to a willing buyer.

## **14 Qualification for compensation**

- (1) No person shall be entitled to compensation under the last foregoing section unless he has as a registered employer employed dock workers in the port in question for some time during each of not less than eighty weeks during the qualifying period or for not less than five hundred man-days during that period.
- (2) In this section—
- " the qualifying period " means the period of one hundred and four weeks ending with whichever of the following dates is relevant, that is to say—
    - (a) in the case of a person whose application for a licence was made, or a person who was both a registered employer and a registered dock worker, before the commencement of section 1 of this Act, the date of the expiration of the prescribed time for making the application for the licence;
    - (b) in the case of a person whose application for the renewal of a licence is refused, the date of the expiration of the period for which the licence was granted;
  - " week " means the period between midnight on any Saturday night and midnight on the following Saturday night.
- (3) For the purposes of this section the number of man-days for which a registered employer employs dock workers in any period shall be taken to be the aggregate of the number of dock workers employed by him on each of the days during that period, and without prejudice to the foregoing provision a person shall be treated for the purposes of this section as employing a dock worker on any day if on that day he works for himself on dock work or he or a partner of his works on dock work for a firm in which both are partners.

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- (4) If within the qualifying period the dock business of any person has been transferred by agreement or operation of law to another person, the person in whom it is vested at the end of that period shall be treated for the purposes of this section as if he had been a registered employer on those days on which any person in whom the business was vested during that period was a registered employer and as if he had employed the dock workers employed in the business on any of those days or, as the case may be, as if he had done any work done on any of those days by any registered employer in whom the business was then vested.

## **15 Applications for compensation**

- (1) An application for compensation under section 13 of this Act shall be made to the licensing authority within twenty-eight days, or such longer time as the licensing authority may allow, of whichever of the following dates is relevant, that is to say—
- (a) where the applicant was both a registered employer and a registered dock worker before the commencement of section 1 of this Act but did not apply for a licence within the prescribed time for making an application for a licence, the day on which that time expires ;
  - (b) where the applicant made an application for a licence or the renewal of a licence which was refused, and there has been no appeal against or objection to the refusal, the last day on which an appeal or objection could have been brought or made without an extension of the time for appealing or objecting;
  - (c) where the applicant made such an application and there has been such an appeal or objection, the date on which the Minister gives notice of his decision on the appeal or objection.
- (2) An application for compensation shall be made in the prescribed manner and shall be accompanied by the prescribed particulars.

## **16 Determination of amount of compensation**

- (1) Within six months of the making of an application for compensation under section 13 of this Act the licensing authority shall determine whether any compensation is payable under that section and, if it determines that compensation is so payable, shall seek to agree or, in default of agreement, shall determine the amount of compensation payable.
- (2) Where the licensing authority agrees or determines the amount of any compensation it shall give the applicant notice in writing of the amount agreed or determined, and where the authority determines that no compensation is payable as aforesaid it shall give the applicant notice of the determination, together with the reasons therefor.
- (3) Any applicant for compensation who is aggrieved by a determination whether compensation is payable to him or as to the amount of compensation payable may, within twenty-eight days of the authority's giving him notice of the determination, give the authority notice in writing that he disputes the determination.
- (4) Upon receipt of such a notice the authority shall refer the dispute to the Minister and he shall refer it to the arbitration of an arbitrator or arbiter, as the case may be, appointed by him.
- (5) Where no notice is given under subsection (3) of this section, the amount of compensation, if any, agreed or determined under this section shall be a debt due from

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the licensing authority to the person to whom compensation is to be paid, and shall be recoverable accordingly.

- (6) In relation to an arbiter appointed under subsection (4) of this section the following provisions shall apply—
- (a) any arbiter so appointed shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath and the awarding of expenses, as if the arbitration were under a submission;
  - (b) the arbiter may, and if so directed by the Court of Session shall, state a case for the opinion of that Court on any question of law arising in the proceedings ; and
  - (c) any award of an arbiter so appointed in pursuance of this section may be recorded in the Books of Council and Session for execution, and may be enforced accordingly.

## **17 Loans to licensing authorities**

- (1) A licensing authority may borrow from the Minister or otherwise any sums required by the authority for the purpose of making payments of compensation and interest thereon and of meeting any costs and expenses of and incidental to any arbitration under the last foregoing section, and the Minister may, out of moneys provided by Parliament, lend such sums to the authority.
- (2) Any loan made by the Minister under this section shall be repaid to him at such times and by such methods, and interest thereon shall be paid to him at such rates and at such times, as he may, with the approval of the Treasury, from time to time direct.
- (3) Any loan so made shall be disregarded in determining whether any limit imposed by any enactment or any instrument under an enactment on the amount which the licensing authority may borrow has been exceeded.

## **18 Levy on licensed employers**

- (1) A licensing authority which has made any payment of compensation or interest thereon, or of any costs and expenses of and incidental to any arbitration under section 16 of this Act, may, subject to the following provisions of this section, recover the whole or any part of the sums so paid, together with a reasonable amount in respect of interest thereon from the date of payment, by means of a levy imposed on the persons holding licences for the port in question at the end of the relevant period.

The aggregate of the sums so paid and of the said amount of interest is hereafter in this section referred to as the potential amount of the levy.

- (2) A person whose licence is revoked during the relevant period shall be treated for the purposes of this section as if the licence were in force at the end of that period.
- (3) A levy imposed under this section—
  - (a) may be required to be paid either in one sum or by instalments over such period, not exceeding five years, as the licensing authority thinks fit; and
  - (b) shall be charged with interest at a reasonable rate on the amount outstanding from the date of the decision to impose the levy;

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and interest on the levy shall be payable on the date of payment of the levy or each instalment thereof, as the case may be.

- (4) Before determining whether to require a levy under this section to be paid in one sum or by instalments and, if by instalments, the period over which it is to be paid the licensing authority shall consult the persons liable to contribute to the levy.
- (5) The amount payable by any person under the levy shall be calculated by reference to the total amount of gross wages paid by him during the relevant period to registered dock workers employed by him in the port in question and shall bear the same proportion to the potential amount of the levy as the total amount of those wages bears to the total amount of gross wages paid by all registered employers during that period in the port to registered dock workers employed by them there.
- (6) If during the relevant period the dock business of any person has been transferred by agreement or by operation of law to another person, the person in whom it is vested at the end of that period shall be treated for the purposes of this section as if he had employed in the port in question the dock workers employed there in the business during that period and had paid the wages paid to them during that period.
- (7) Not less than twenty-eight days before the levy or the first instalment thereof is to become payable the licensing authority shall serve on each person who is liable to pay the levy a notice stating—
  - (a) the potential amount of the levy, showing separately the amounts of compensation or interest paid, of any costs and expenses paid, and of any interest on any such payments;
  - (b) the total amount of the gross wages paid during the relevant period in the port in question by all registered employers to registered dock workers employed by them there, the total amount of the gross wages paid during that period by the person on whom the notice is served to registered dock workers employed by him there and the proportion which the latter amount bears to the former;
  - (c) the total amount of the gross wages paid during that period by the licensing authority to registered dock workers employed by it in the port in question;
  - (d) the amount of the levy to be paid by the person on whom the notice is served and the share of the potential amount of the levy which is to be borne by the licensing authority;
  - (e) the date by which payment of the levy is required to be made or, if payment is to be allowed by instalments, the amount of each instalment, the date of payment of the first instalment and the intervals thereafter on which subsequent instalments are to be paid and the rate of interest payable on the levy.
- (8) If it appears to the licensing authority that any amount specified in a notice served on any person under the last foregoing subsection has been incorrectly calculated, the licensing authority may by a subsequent notice served on that person correct the amount so specified.
- (9) Any sum payable under the levy shall be a debt due to the licensing authority from the person liable to pay it and shall be recoverable accordingly.
- (10) A licensing authority shall keep a separate account in respect of each levy imposed by it, and every such account shall be open to inspection at all reasonable times by any person who is liable to contribute to the levy to which it relates.

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(11) In this section " relevant period " means—

- (a) in relation to a levy to recover an amount paid for compensation for refusal or omission to grant a licence before the commencement of section 1 of this Act, or for interest thereon or costs and expenses incidental thereto, the period of twelve months beginning with the commencement of that section; and
- (b) in relation to a levy to recover the amount paid for compensation for refusal to renew a licence, or for interest thereon or costs and expenses incidental thereto, the period of twelve months beginning with the date of the refusal;

and the amount of any gross wages paid by a registered employer during any period shall be taken for the purposes of this section to be the amount specified in the return of gross wages paid by him during that period made by him to the local board in pursuance of any labour scheme.

## **19 Certificates**

(1) The following certificates shall be evidence of the facts stated in them—

- (a) a certificate signed by an officer of the Board as to any of the matters mentioned in section 14(1) of this Act;
- (b) a certificate signed by an officer of the Board as to the total amount of gross wages paid by any person during the relevant period within the meaning of the last foregoing section to registered dock workers employed by him in any port; and
- (c) a certificate signed by an officer of a licensing authority that a copy of a notice under subsection (7) of the last foregoing section of this Act is a true copy.

(2) A document purporting to be such a certificate as is mentioned in the foregoing subsection shall be taken to be such a certificate as aforesaid and received in evidence accordingly unless it is proved not to be such a certificate.