



Dock Work Act 1989

CHAPTER 13

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Dock Work Act 1989

1989 CHAPTER 13

An Act to abolish the Dock Workers Employment Scheme 1967 and repeal the Dock Workers (Regulation of Employment) Act 1946; to make provision for the dissolution of the National Dock Labour Board; and for connected purposes. [3rd July 1989]

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:—

Abolition of Dock Labour Scheme

1.—(1) The Dock Workers Employment Scheme 1967 made under the Dock Workers (Regulation of Employment) Act 1946 shall, together with that Act, cease to have effect on the date of the passing of this Act.

Abolition of
Dock Labour
Scheme.
1946 c. 22.

(2) Any local dock labour board or other body constituted in accordance with the 1967 Scheme shall accordingly cease to exist on that date.

(3) Notwithstanding that Clause 3(1)(g) of the 1967 Scheme (functions of the National Dock Labour Board as to training and welfare) is, by virtue of subsection (1), no longer to apply to the Board, the Board shall continue during the transitional period to have power to make provision for the training and welfare of dock workers (within the meaning of the Scheme), including provision for port medical services.

(4) In this Act “the transitional period” means the period beginning with the date of the passing of this Act and ending on the date on which the Board is dissolved in accordance with section 2.

Dissolution of National Dock Labour Board

2.—(1) As from the date of the passing of this Act it shall be the duty of the Board to wind up its affairs as expeditiously as possible.

Dissolution of
National Dock
Labour Board.

(2) The power conferred on the Board by section 1(3) shall accordingly be exercisable by the Board in such manner as appears to it to be consistent with the performance of its duty under subsection (1).

(3) The Board shall comply with such directions as may be given to it by the Secretary of State with respect to—

- (a) the performance by it of its duty under subsection (1), or
- (b) the exercise by it of the power conferred by section 1(3).

(4) If the Secretary of State and the Treasury consent, any disposal by the Board of any of its assets in the performance of its duty under subsection (1) may be made for a consideration which is less than the market value of the assets in question or for no consideration.

(5) The Board shall be dissolved on such date as the Secretary of State may specify by order made by statutory instrument.

(6) On that date all the property, rights and liabilities to which the Board was entitled or subject immediately before that date shall become property, rights and liabilities of the Secretary of State.

(7) References in this Act to property, rights and liabilities of the Board are references to all such property, rights and liabilities, whether or not capable of being transferred or assigned by the Board.

Appointment by Secretary of State of person to act in place of members of Board.

3.—(1) If it appears to the Secretary of State that the Board has failed to comply with any directions given by him under section 2(3), the Secretary of State may—

- (a) by notice in writing given to each of the members of the Board terminate their appointments as from a date specified in the notice, and
- (b) appoint a person to act in place of the members of the Board during the remainder of the transitional period.

(2) During the remainder of that period any person so appointed may accordingly do anything in relation to the conduct of the activities of the Board that could have been done by the members of the Board.

(3) A person appointed under this section shall comply with such directions as may be given to him by the Secretary of State with respect to the manner in which he is to act in relation to the conduct of the winding up of the Board's affairs or the conduct of any other activities of the Board.

(4) The terms of service and remuneration of any such person shall be such as the Secretary of State may determine; and, where the appointment of any such person terminates for any reason, the Secretary of State may appoint some other person under this section to replace him.

Financial provisions relating to winding up of Board's affairs. 1976 c. 79. 1946 c. 22.

4.—(1) Any liability of the Board to the Secretary of State immediately before the date of the passing of this Act in respect of loans made under—

- (a) section 3(3) of the Dock Work Regulation Act 1976 (finances of the Board), or
- (b) section 4 of the Dock Workers (Regulation of Employment) Act 1946 (loans for purposes of schemes),

shall be extinguished on that date.

(2) During the transitional period the Secretary of State may, with the consent of the Treasury, make payments to the Board for the purpose of meeting—

- (a) any expenses incurred during that period by the Board in connection with the winding up of the Board's affairs or any other activities of the Board, or
 - (b) any outstanding liabilities of the Board to persons other than the Secretary of State.
- (3) Any sums required by the Secretary of State—
- (a) for making payments under subsection (2), or
 - (b) for making payments of remuneration to a person appointed under section 3,
- shall be paid out of money provided by Parliament.

Compensation schemes and employment protection

5.—(1) The Secretary of State shall by regulations make a scheme providing—

Compensation for former registered dock workers who become redundant.

- (a) for payments of compensation to be made to persons to whom this section applies by their former registered employers, and
- (b) for contributions towards such payments to be made by the Secretary of State;

and section 81 of the Employment Protection (Consolidation) Act 1978 (right to redundancy payment) shall not apply to persons to whom this section applies.

1978 c. 44.

- (2) This section applies to a person if—
- (a) immediately before the date of the passing of this Act he was a permanent worker or a temporarily unattached worker, and
 - (b) he is, within such period beginning with that date as may be prescribed, dismissed by reason of redundancy by his former registered employer, and
 - (c) where he is so dismissed at any time after that date, he has been in the employment of that employer since that date.
- (3) Regulations under this section may make provision—
- (a) for a person falling within subsection (2)(a)—
 - (i) whose contract of employment with his former registered employer has, as a result of one or more transfers to which the Transfer of Undertakings (Protection of Employment) Regulations 1981 apply, taken effect as a contract of employment with a person other than that employer (“the successor employer”), and
 - (ii) who is dismissed by reason of redundancy by the successor employer within the period referred to in subsection (2)(b),
 to be treated, for the purposes of this section and any scheme made under it, as if he were a person to whom this section applies; and
 - (b) for the successor employer to be treated, for those purposes, as if he were the former registered employer of that person.

S.I.1981/1794.

(4) Regulations under this section may, in particular, make provision with respect to—

- (a) circumstances in which a person is or is not, for the purposes of this section and any scheme made under it—
 - (i) to be taken to be dismissed or dismissed by reason of redundancy, or
 - (ii) to be taken to be dismissed within the period referred to in subsection (2)(b);
- (b) any conditions which must be fulfilled by a person to whom this section applies in order for him to be entitled to a compensation payment;
- (c) the amounts payable by way of compensation payments and the manner in which they are to be calculated;
- (d) the amount payable by the Secretary of State by way of contribution towards any such payment and the manner in which it is to be calculated;
- (e) any conditions which must be fulfilled, and the procedure which must be followed, by a person liable to make a compensation payment in order for him to be entitled to receive a contribution towards that payment from the Secretary of State;
- (f) the rights and remedies of a person who is entitled to, but has not received, a compensation payment in the event of the insolvency (as defined by the regulations) of the person liable to make it;
- (g) the reference to, and determination by, industrial tribunals of questions arising under a scheme under this section;
- (h) such incidental, consequential, transitional or supplemental matters as appear to the Secretary of State to be necessary or expedient for the purposes of any such scheme.

(5) Regulations under this section may make provision in connection with compensation payments for any of the matters for which provision is made in connection with redundancy payments by—

- (a) sections 81 to 102 and 106 to 108 of the 1978 Act, or
- (b) Schedule 4 to that Act,

and may do so whether by applying any provision of those sections or that Schedule, subject to any prescribed modifications, or otherwise.

(6) Without prejudice to the generality of paragraphs (b) and (c) of subsection (4), any regulations made in pursuance of either of those paragraphs may be framed by reference to any of the following matters, namely—

- (a) the age of a person to whom this section applies,
- (b) the length of the period of time during which such a person has been continuously employed (as defined in the regulations) as an employee of any prescribed description,

(c) the length of the period of time during which such a person's name was entered in any statutory register of dock workers, and any regulations made in pursuance of paragraph (c) of that subsection may provide for the amount payable to a person by way of compensation payment to be abated by reference to the length of the period of time between the date of the passing of this Act and the date of his dismissal by reason of redundancy.

(7) Any regulations made in pursuance of subsection (4)(d) shall require the consent of the Treasury.

(8) Without prejudice to the generality of paragraph (h) of subsection (4), regulations under this section may provide for the form in which applications are to be made, or other things are to be done, for the purposes of any provision of a scheme under this section to be such as the Secretary of State may direct.

(9) Regulations under this section—

- (a) may make different provision for different cases or circumstances; and
- (b) may be made so as to have effect as from the date of the passing of this Act or any later date.

(10) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(11) The Secretary of State may require the Board to give him such information as he may reasonably require for the purposes of his functions under this section or under any scheme made under it; and section 3(1) shall have effect in relation to any requirement imposed by him under this subsection as it has effect in relation to any directions given by him under section 2(3).

(12) Any sums required by the Secretary of State for making contributions in accordance with a scheme under this section shall be paid out of money provided by Parliament.

(13) In this section—

“compensation payment” means a payment of compensation in accordance with a scheme under this section;

“former registered employer”—

(a) in relation to a person who was in the employment of a registered employer immediately before the date of the passing of this Act, means that registered employer;

(b) in relation to a person to whom paragraph 4 of Schedule 2 to this Act applies, means—

(i) the person by whom he is taken to be employed on that date by virtue of sub-paragraph (2) of that paragraph, or

(ii) the person by whom he is treated as dismissed on that date by virtue of sub-paragraph (4) of that paragraph,

as the case may be; and

“prescribed” means prescribed by regulations under this section.

Employment
protection for
dock workers.

6.—(1) This section applies to any employee who immediately before the date of the passing of this Act was a registered dock worker in the employment of a registered employer and is in the same employment on that date.

(2) Section 1 of the 1978 Act (right to written particulars of terms of employment) shall have effect in relation to any employee to whom this section applies as if it required the employer by whom he is employed on the date of the passing of this Act to give to the employee a written statement in accordance with that section not later than the end of the period of thirteen weeks beginning with that date.

(3) In computing for the purposes of any provision of the 1978 Act the period of continuous employment of an employee to whom this section applies—

- (a) any period during which the employee's name was entered in any statutory register of dock workers (whether or not he was in the employment of a registered employer) shall be treated for the purposes of section 151 of, and Schedule 13 to, that Act as if it had been a period of employment under a contract of employment with the employer by whom he is employed on the date of the passing of this Act, and
- (b) any week during the whole or part of which his name was entered in any statutory register of dock workers (whether or not he was in the employment of a registered employer) shall, without prejudice to paragraph 15 of Schedule 13, be treated as if it were such a week as is mentioned in paragraph 4 of that Schedule.

Supplementary

Repeals etc.

7.—(1) The enactments mentioned in Schedule 1 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

S.I. 1981/1794.

(2) In Regulation 13 of the Transfer of Undertakings (Protection of Employment) Regulations 1981, paragraphs (3) and (4) are hereby revoked.

1966 c. 28.

(3) In section 58 of the Docks and Harbours Act 1966 (interpretation), for subsection (1) there shall be substituted—

“(1) In this Act “the 1964 Act” means the Harbours Act 1964.”

(4) In Schedule 2 to the 1978 Act (supplementary provisions relating to maternity)—

- (a) in paragraph 2(4), for “144(2) and 145(2)” there shall be substituted “and 144(2)”, and
- (b) in paragraph 6(3), for “144(2) and 145” there shall be substituted “and 144(2)”.

(5) The transitional provisions and savings contained in Schedule 2 to this Act shall have effect.

Short title,
interpretation,
commencement
and extent.
1978 c. 44.

8.—(1) This Act may be cited as the Dock Work Act 1989.

(2) In this Act—

“the 1978 Act” means the Employment Protection (Consolidation) Act 1978;

“the Board” means the National Dock Labour Board;

“the dissolution date” means the date specified by the Secretary of State under section 2(5);

“permanent worker”, “registered dock worker”, “registered employer”, “supplementary worker” and “temporarily unattached worker” have the same meaning as in the 1967 Scheme;

“the 1967 Scheme” means the Scheme referred to in section 1(1);

“statutory register of dock workers” means—

(a) any register of dock workers kept under the 1967 Scheme,
or

(b) any such register kept before the commencement of that Scheme under the scheme made under the Dock Workers (Regulation of Employment) Act 1946 (whether as originally made or as varied from time to time); and 1946 c. 22.

“the transitional period” has the meaning given by section 1(4).

(3) Subject to subsection (4), this Act shall come into force on the date of its passing.

(4) Part II of Schedule 1, and section 7(1) so far as relating thereto, shall come into force on the dissolution date.

(5) This Act does not extend to Northern Ireland except in so far as it repeals any enactment extending there.

SCHEDULES

Section 7(1).

SCHEDULE 1

REPEALS

PART I

REPEALS TAKING EFFECT ON ROYAL ASSENT

Chapter	Short title	Extent of repeal
1946 c. 22.	Dock Workers (Regulation of Employment) Act 1946.	The whole Act.
1966 c. 28.	Docks and Harbours Act 1966.	Parts I and II. Sections 51 to 57. Section 58(2) to (5). Section 59. Section 60(2) to (4). Schedule 1.
1968 c. 73.	Transport Act 1968.	Section 153.
1971 c. 32.	Attachment of Earnings Act 1971.	Section 25(4).
1975 c. 71.	Employment Protection Act 1975.	Section 119(3).
1976 c. 79.	Dock Work Regulation Act 1976.	Sections 2 to 12. Section 13(1)(a) and (2). Section 14. Section 15(2) and (3). Section 16. Section 17(3) and (4). Schedules 2 to 6.
1978 c. 44.	Employment Protection (Consolidation) Act 1978.	Section 145. In section 149(1)(c), "145(1), (2) and (3)". In Schedule 16, paragraph 27(1).
1981 c. 21.	Ports (Financial Assistance) Act 1981.	Section 2.
1981 c. 56.	Transport Act 1981.	In Part I of Schedule 5, paragraphs 13 and 14(6).
1982 c. 10.	Industrial Training Act 1982.	In Schedule 3, paragraph 1.
1982 c. 46.	Employment Act 1982.	In Schedule 3, paragraph 27(2)(b) and (3)(b) and the "and" immediately preceding each of those provisions.
1985 c. 30.	Ports (Finance) Act 1985.	Section 1.

PART II

SCH. 1

REPEALS TAKING EFFECT ON DISSOLUTION OF BOARD

Chapter	Short title	Extent of repeal
1975 c. 24.	House of Commons Disqualification Act 1975.	In Part III of Schedule 1, the entry relating to the Chairman or Vice-Chairman of the Board.
1976 c. 79.	Dock Work Regulation Act 1976.	Section 1. Section 13(1) so far as unrepealed. Section 15(1). Section 17(1) and (2). Section 18. Schedule 1.
1978 c. 44.	Employment Protection (Consolidation) Act 1978.	In Schedule 16, paragraph 27(2).
1985 c. 9.	Companies Consolidation (Consequential Provisions) Act 1985.	In Schedule 2, the entry relating to the Dock Work Regulation Act 1976.

SCHEDULE 2

Section 7(5).

TRANSITIONAL PROVISIONS AND SAVINGS

Transfer of rights and liabilities of local boards

1.—(1) Any rights and liabilities to which any local board is entitled or subject immediately before the date of the passing of this Act (whether or not capable of being assigned by the board) shall on that date become rights and liabilities of the Board.

(2) Every agreement (whether written or not), and every instrument or other document, which relates to any such right or liability as is mentioned in subparagraph (1) shall have effect, so far as may be required for continuing its effect during the transitional period, as if—

- (a) where the local board is a party to it, the Board were substituted as that party, and
- (b) for any reference to the local board there were substituted a reference to the Board.

(3) In this paragraph “local board” means any such board as is mentioned in section 1(2) of this Act.

Effect of documents relating to National Dock Labour Board or local boards as from dissolution date

2. Every agreement (whether written or not), and every instrument or other document, which relates to—

- (a) any property, right or liability of the Board which vests in the Secretary of State by virtue of section 2(6) of this Act, or
 - (b) any such right or liability as is mentioned in paragraph 1(1) above,
- shall have effect, so far as may be required for continuing its effect on or after the dissolution date, as if—
- (i) where the Board is (or immediately before that date was treated as) a party to it, the Secretary of State were substituted as that party,

- SCH. 2
- (ii) for any reference to the Board (including any reference which was then to be construed as such a reference) there were substituted a reference to the Secretary of State,
 - (iii) for any reference (however worded and whether express or implied) to the chairman or vice chairman or any member of the Board (including any reference which was then to be construed as such a reference) there were substituted a reference to such officer or officers as the Secretary of State shall appoint for the purpose, and
 - (iv) for any reference to the office or place of business of the Board (including any reference which was then to be construed as such a reference) there were substituted a reference to the principal office of the Secretary of State.

Legal proceedings by or against the Board

3. Any legal proceedings to which the Board was a party immediately before the dissolution date may be continued on or after that date by or in relation to the Secretary of State.

Temporarily unattached or suspended workers

4.—(1) This paragraph applies to an employee who, immediately before the commencement date—

- (a) was a temporarily unattached worker and was not in the employment of a registered employer, or
- (b) was a registered dock worker under a period of suspension from the 1967 Scheme imposed in accordance with that Scheme;

but does not apply to any employee falling within paragraph (b) who was at that time a supplementary worker.

(2) Where the previous employer of an employee to whom this paragraph applies was, immediately before the commencement date, a registered employer carrying on a dock business—

- (a) the employee shall for all purposes be taken to have entered into a contract of employment on the commencement date with his previous employer on the same terms and conditions as those of his previous contract of employment, and
- (b) subsection (3) of section 6 of this Act shall apply in relation to the employee as it applies in relation to an employee to whom that section applies.

(3) Where—

- (a) by virtue of sub-paragraph (2)(a) an employee to whom this paragraph applies is taken to have entered into a new contract of employment with his previous employer, and
- (b) the employer subsequently dismisses the employee,

then, in determining for any purpose whether the reason for the dismissal was such as to justify the dismissal of an employee holding the position which the employee held and whether the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, account may be taken of the employee's conduct during his employment with the employer under his previous contract of employment.

(4) Where the previous employer of an employee to whom this paragraph applies was not, immediately before the commencement date, a registered employer carrying on a dock business, then, for the purposes of section 5 of this Act and any scheme made under that section, the employee shall, subject to sub-paragraph (5), be treated as dismissed by his previous employer on the commencement date by reason of redundancy.

(5) Regulations made under section 5 may provide that, in such circumstances as may be prescribed by the regulations, an employee to whom sub-paragraph (4) applies is not to be treated as dismissed by reason of redundancy as mentioned in that sub-paragraph.

SCH. 2

(6) In this paragraph—

- (a) “the commencement date” means the date of the passing of this Act;
- (b) references to “dismissal” and “dismiss” shall be construed in accordance with section 55 of the 1978 Act;
- (c) “dock business” means any business or undertaking which consists of or includes the carrying out of dock work (within the meaning of the 1967 Scheme); and
- (d) in relation to an employee to whom this paragraph applies—
 - (i) “previous employer” means the person (other than the Board) by whom he was last employed under the 1967 Scheme; and
 - (ii) “previous contract of employment” means the contract of employment under which he was employed by the previous employer immediately before that employment ended.

Workers on temporary transfer

5. A permanent worker who, immediately before the date of the passing of this Act—

- (a) was, in accordance with the 1967 Scheme, on temporary transfer from the registered employer by whom he was employed as a permanent worker (“the permanent employer”), and
- (b) was, by virtue of Clause 8(10) of that Scheme, deemed for the purposes of that Scheme to have remained in the employment of the permanent employer,

shall for all purposes (including the purposes of sections 5 and 6 of this Act and any scheme made under section 5) be deemed to have remained in the employment of the permanent employer.

Application of certain provisions of the 1978 Act

6. Where a registered dock worker was, in accordance with any provision of the 1967 Scheme, given a notice terminating his employment on or after the date of the passing of this Act, that notice shall not be affected by the Scheme ceasing to have effect by virtue of section 1(1) of this Act; and nothing in sections 49 to 51 of the 1978 Act (termination of employment) shall apply in relation to that employment.

7.—(1) This paragraph applies to any employment to which section 145(2) of the 1978 Act (employment as registered dock worker) applied immediately before the date of the passing of this Act.

(2) Neither section 122 of the 1978 Act (employee’s rights on insolvency of employer) nor section 123 of that Act (payment of unpaid contributions to personal or occupational pension scheme on insolvency of employer) shall have effect in relation to any such employment unless the employer becomes insolvent for the purposes of that section on or after the date of the passing of this Act; and, in such a case—

- (a) section 122 shall so have effect whether any debt, or part of a debt, mentioned in subsection (3) of that section became payable to the employee before or after that date, and
- (b) section 123 shall so have effect whether any relevant contributions (within the meaning of that section) fell to be paid by the employer before or after that date.

SCH. 2 *Preservation of liability of registered employer to contribute to costs of 1967 Scheme*

8.—(1) Where immediately before the date of the passing of this Act a registered employer was liable to make any payment under Clause 21(1) of the 1967 Scheme towards the cost of operating the Scheme, the liability to make that payment shall not be affected by the Scheme ceasing to have effect by virtue of section 1(1) of this Act.

1978 c. 30. (2) Sub-paragraph (1) shall not be construed as prejudicing the generality of section 16 of the Interpretation Act 1978 (general savings).

Extinguishment of certain rights and liabilities arising under Part I of Docks and Harbours Act 1966

1966 c. 28. 9.—(1) Subject to sub-paragraph (2), the repeal by this Act of Part I of the Docks and Harbours Act 1966 shall operate to extinguish—

- (a) any right to compensation under section 13 of that Act which has not been satisfied before the date of the passing of this Act; and
- (b) any liability in respect of a sum which has become payable under a levy imposed under section 18 of that Act but has not been paid before that date.

(2) Sub-paragraph (1)(a) does not apply to a right to compensation under section 13 of that Act in respect of any matter if, before the date of the passing of this Act, a determination has been made under section 16(1) of that Act as to whether any such compensation is payable; and sections 13, 14, 16, 18 and 19 of that Act shall continue to have effect in connection with any such compensation as if this Act had not been passed.

