

1978-17
Repealed

Dock Work (Regulation)

ARRANGEMENT OF SECTIONS.

Section

1. Short title.
2. Interpretation.
3. Establishment of Board.
4. Composition of Board.
5. Meetings and proceedings.
6. Functions and duties of the Board.
7. Registration.
8. Licences for stevedoring.
9. Re-registration.
10. Particulars of dock workers to be supplied.
11. Removal from register, etc.
12. Appeal.
13. Restriction of employment.
14. Rates of pay, etc.
15. Offences.
16. Regulations.
17. *Omitted.*

1978-17
Repealed

Dock Work (Regulation)

AN ORDINANCE TO MAKE PROVISIONS FOR REGULATING EMPLOYMENT WITHIN THE PORT AND FOR MATTERS INCIDENTAL THERETO.

Short title.

1. This Ordinance may be cited as the Dock Work (Regulation) Ordinance.

Interpretation.

2. In this Ordinance, unless the context otherwise requires,—

“Board” means the Dock Labour Board established under section 3;

“dock work” means within the Port the transfer and stowage of cargo in transit and storage sheds, the stuffing and unstuffing of freight containers, the handling of cargo after it has been delivered to the Port in the case of exports or before it is collected by the consignees in the case of imports;

“dock worker” means a person registered in the Register of Dock Workers kept and maintained by the Board;

“member” includes the Chairman;

“Minister” means the Minister from time to time charged with the responsibility for the Port;

“Port” means—

- (a) that area of water and the foreshore adjacent thereto as is commonly known and recognised as the Port, roadstead and anchorage ground of Gibraltar including Admiralty and Port Waters as defined from time to time in any relevant Order in Council; and
- (b) *Omitted*
- (c) all that area of land defined as being part of the Port in the Port Ordinance¹;

“registered employer” means a person registered in the Register of Port Employers kept and maintained by the Board;

¹ 1960-16

“ship” means anything made or used for the conveyance by water of human beings or property except a warship;

“stevedoring” means dockwork and, in addition, the operation of loading and unloading ships and warships (except where the operation of loading and unloading is carried out by persons in the direct employment of the Ministry of Defence) but does not include operations conducted in respect of cargo from ships exclusively employed in carrying fuel, lubricants or water or the supply of bunkers to ships.

Establishment of Board.

3. There is hereby established a Board to be known as the Dock Labour Board.

Composition of Board.

4. (1) The Board shall consist of—
- (a) a Chairman;
 - (b) two members representative of the interests of registered employers, one of which shall be representative of the interests of licensed stevedores;
 - (c) two members representative of the interests of the dock workers;
 - (d) two members described as independent members, who are not representative of the interests of registered employers or dock workers.
- (2) Members of the Board shall be appointed by the Minister by notice in the Gazette.
- (3) Appointment to the Board shall be for a period of two years and members shall be eligible for re-appointment.
- (4) Any member may resign his office by giving notice in writing to the Minister.
- (5) The Minister may appoint a Secretary of the Board.

Meetings and proceedings.

5. (1) The Chairman and three members, who shall include at least one independent member and one member representative of the interests of

registered employers and one member representative of the interests of dock workers, shall constitute a quorum at any meeting of the Board but subject thereto the Board may act notwithstanding any vacancy in its membership.

(2) At all meetings of the Board the Chairman or, in his absence, such member as the members present may elect, shall preside.

(3) Subject to the provisions of this Ordinance the Board may regulate its proceedings in such manner as it thinks fit.

(4) All matters coming or arising before a meeting of the Board shall be decided by a majority of the members present and voting thereon at the meeting:

Provided that the Chairman or other member presiding shall have a casting vote but not an original vote.

(5) The Board shall meet as often as may be necessary but not more than three months shall elapse between meetings.

(6) Minutes shall be kept of all meetings and a copy furnished to the Minister.

(7) The Board may appoint such committees of its members as it shall deem necessary and shall appoint a committee to be known as the Registration and Licensing Committee which shall consist of the Chairman and the two independent members of the Board, and the Board shall specify, except insofar as it is prescribed, the procedure to be followed by such committees.

Functions and duties of the Board.

6. (1) It shall be the function and duty of the Board—

- (a) to consider the most efficient utilisation of dock work whereby the rapid and economic turn round of ships and the speedy transit of goods through the Port may be effected;
- (b) to maintain records of earnings and conditions of employment of dock workers;
- (c) to safeguard, as far as is economically practical, the employment of dock workers;
- (d) to regulate the recruitment and employment of dock workers;
- (e) to keep and maintain a register to be known as the Register of Port Employers, to enter therein the names of employers who

Dock Work (Regulation)

are registered under the provisions of section 7, and where occasion requires it, to remove from the register the name of any employer at his own request or in accordance with the provisions of this Ordinance;

- (f) to keep and maintain a register to be known as the Register of Dock Workers, to enter therein the names and particulars of all dock workers and to remove therefrom the name of any person who ceases to be employed as a dock worker;
- (g) to consider and advise upon any other matter which may be referred to it by the Minister;
- (h) to exercise such further and other functions as may be required under the provisions of this Ordinance or as may be prescribed.

(2) In matters relating to the registration or removal from the register of Port employers or dock workers or the licensing or termination of licence of a person engaged in stevedoring, the Board shall act in accordance with the recommendations of the Registration and Licensing Committee established in accordance with section 5(7), unless the Board is satisfied that the Committee has, in making its recommendation, failed to comply with any relevant provision of this Ordinance or Regulations made hereunder.

Registration.

7. (1) Any person who satisfies the Board that immediately before the 1st day of May, 1994, he was regularly employing persons in full time dock work, and whether he was registered under the Dock Workers (Regulation of Employment) Ordinance or not, shall, on application, be registered by the Board as an employer.

(2) Any person who satisfies the Board that immediately before the 1st day of May, 1994, he was regularly employed in full time dock work, and whether he was registered under the Dock Workers (Regulation of Employment) Ordinance² or not, shall, on application, be registered by the Board as a dock worker.

(3) The Board may, if it considers it necessary for the efficient operation of the Port, register any person as an employer or as a dock worker who has not been registered under subsection (1) or (2) but who has applied to be so registered and who the Board is satisfied complies with the requirements of the Ordinance and Regulations made hereunder.

² 1959-14

(4) Notwithstanding that he has been registered under subsection (1) or (3) a registered employer shall not engage in stevedoring unless he has been licensed under section 8.

Licences for stevedoring.

8. (1) Any person who satisfies the Board that immediately before the 1st day of May, 1994, he was engaged in stevedoring, whether alone or with others, shall, on application, be licensed by the Board as a stevedore.

(2) The Board may, if it considers it necessary for the efficient operation of the Port, license as a stevedore any person who has not been licensed under subsection (1) and who the Board is satisfied complies with the provisions of the Ordinance and Regulations made hereunder.

Re-registration.

9. (1) Every registered employer and every dock worker shall not less than thirty days before the 1st May or such other date as the Minister may, by notice in the Gazette, specify in every year apply to the Board to be re-registered and, if he has been licensed as a stevedore, to be re-licensed.

(2) Upon receiving an application under subsection (1) the Board shall re-register or re-license such person as the case may be unless it is satisfied that such person has not been regularly engaged in dock work, whether as a registered employer or as a dock worker, or, if licensed as a stevedore, in stevedoring in the year preceding the 1st May or during such part thereof as he has been registered or licensed and in any case that the person has not complied or does not comply with the provisions of this Ordinance or Regulations made hereunder:

Provided that for the purposes of this section a dock worker shall be deemed to be regularly engaged in dock work during any period that he is registered as unemployed in accordance with the relevant legislation.

Particulars of dock workers to be supplied.

10. (1) Every registered employer shall, within seven days of being notified that he has been registered or re-registered as the case may be by the Board, send to the Board such particulars as may be prescribed of all dock workers employed by him at the time of registration or re-registration.

(2) Every registered employer shall—

- (a) within seven days of commencing to employ any dock worker, send to the Board the particulars prescribed in respect of such worker; and

Dock Work (Regulation)

- (b) within seven days of ceasing to employ any person as a dock worker send to the Board notice thereof.

(3) A registered employer who is in breach of the provisions of subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale.

Removal from register, etc.

11. (1) The Board shall remove from the relevant register and/or revoke the licence of—

- (a) any registered employer or dock worker at his own request;
- (b) any person whom it does not re-register or re-license under the provisions of section 9;
- (c) any dock worker who ceases to be employed by a registered employer unless such dock worker is registered as unemployed in accordance with the relevant legislation,

and shall notify such person of such removal or revocation.

(2) Notwithstanding the provisions of subsection (1)(b) or (c) the Board shall not remove from the register or revoke a licence until either the time for appealing has expired and no appeal has been lodged with the person appointed in accordance with section 12 or, if an appeal has been lodged, such appeal has been abandoned or dismissed.

Appeal.

12. Any person who is—

- (a) aggrieved by the refusal of the Board to register or license a person under the provisions of section 7 or 8 or not to re-register or re-license a person under the provisions of section 9;
or
- (b) aggrieved by his removal from the register under the provisions of section 11(1)(c),

may appeal to the person or persons appointed by the Minister for the purpose of hearing such an appeal.

Restriction of employment.

13. (1) A registered employer shall not employ a dock worker on any work other than dock work.

(2) A registered employer shall not employ except with the prior consent of the Board any person other than a dock worker on dock work.

(3) No person other than a registered employer shall employ any person on dock work.

(4) No person shall engage in stevedoring unless he has been licensed under section 8.

(5) *Omitted.*

(6) A person who is in breach of the provisions of subsection (1), (2), (3) or (4) is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale, and in the case of a second or subsequent conviction, to imprisonment for three months and to a fine at level 5 on the standard scale.

Rates of pay, etc.

14. Every registered employer shall pay rates of wages and observe hours and conditions of labour not less favourable than those established in the industry.

Offences.

15. (1) A person who fails to comply with any of the provisions of any regulations made under this Ordinance is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale and, in the case of a second or subsequent offence, to a fine at level 5 on the standard scale.

(2) Where a court has convicted a person under the provisions of this Ordinance or any regulations made thereunder the clerk to the justices shall forthwith send a notice of that conviction to the Secretary of the Board.

(3) Where a registered employer has been convicted of a second or subsequent offence the Board may, with the approval of the Governor, remove such employer's name from the Register of Employers for such period, not exceeding three months, as they may think fit.

(4) Notwithstanding the provisions of subsection (3) if a registered employer has given notice of his intention to appeal to the Supreme Court or applies to the magistrates' court to state a case for the opinion of the Supreme Court the name of the employer shall not be removed from the Register pending the determination or abandonment of the appeal or the case so stated, as the case may be.

Regulations.

16. (1) The Government may make regulations for the purpose of carrying this Ordinance into effect and in particular and without prejudice to the generality of the foregoing—

- (a) prescribing the obligations of registered employers which may include the publishing of tariffs and scales of charges;
- (b) prescribing the form to be used for the Register of Port Employers and the Register of Dock Workers;
- (c) prescribing the particulars to be supplied by registered employers of dock workers employed by them;
- (d) the time within which appeals are to be made and the procedure governing such appeals;
- (e) the procedure to be followed by the Registration and Licensing Committee established under section 5(7);
- (f) procedures relating to the making and consideration of applications for registration and licensing including the establishing of criteria by which applications are to be considered, obligations to give publicity to applications made and the monitoring of compliance with the criteria so established, the provisions of this Ordinance and any prescribed conditions relating to registered and licensed employers and dock workers and the renewal and revocation of registration and licenses;
- (g) the attaching of conditions specified by the Board to the registration or licensing of any person;
- (h) providing that any contravention of a regulation shall be a summary offence and providing for a penalty of imprisonment for a term not exceeding three months or a fine not exceeding the amount at level 5 on the standard scale, or both, on conviction for any such offence;
- (i) such other matters as are incidental and supplementary to or may be necessary or expedient for the purposes of this Ordinance.

(2) A person who, notwithstanding that he is not a registered employer and as such liable to prosecution under section 13, employs any person on dock work, is liable to prosecution for breach of any regulations made under this section.

Repeal.

17. *Omitted.*