STATUTORY INSTRUMENTS

1967 No. 314

INDUSTRIAL TRIBUNALS

The Industrial Tribunals (Dock Work) (Scotland) Regulations 1967

Made - - - -	*2nd March* 1967
Laid before Parliament	13*th March* 1967
Coming into Operation	15*th March* 1967

The Minister of Labour in exercise of the powers conferred on him by section 46 of the Redundancy Payments Act 1965(**a**) and after consultation with the Council on Tribunals hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Industrial Tribunals (Dock Work) (Scotland) Regulations 1967 and shall come into operation on 15th March 1967.

Interpretation

2.—(1) The Interpretation Act 1889(**b**) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

"the 1946 Act" means the Dock Workers (Regulation of Employment) Act 1946(**c**);

"the 1965 Act" means the Redundancy Payments Act 1965;

"applicant" means the Board or a licensing authority which, or any person who, refers a question, (or on whose behalf a question is referred by a trade union), under section 51 of the Docks and Harbours Act 1966(**d**), for determination by a tribunal;

"the Board" means the National Dock Labour Board or any other body for the time being constituted or prescribed under the 1946 Act to be responsible for the administration of any labour scheme;

"the clerk to the tribunal" means the person appointed by the Secretary of the Tribunals to act in that capacity at one or more hearings;

"hearing" means a sitting of a tribunal duly constituted for the purpose of receiving evidence, hearing addresses and witnesses or doing anything lawfully requisite to enable the tribunal to reach a decision on any reference;

"labour scheme" means a scheme for the time being in force under the 1946 Act;

"licensing authority" means a body having the function of issuing licences under the Docks and Harbours Act 1966;

"the Office of the Tribunals" means the Central Office of the Industrial Tribunals (Scotland);

(**a**) 1965 c. 62. (**b**) 1889 c. 63. (**c**) 1946 c. 22. (**d**) 1966 c. 28.

" the panel of chairmen " means the panel of persons, being advocates or solicitors of not less than seven years' standing, appointed by the Lord President of the Court of Session in pursuance of Regulation 5(2) of the Industrial Tribunals (Scotland) Regulations 1965(a) ;

" party " means the applicant and the Board or the licensing authority with which or (as the case may be) any person with whom it appears to the applicant that he is in dispute about a question to which section 51 of the Docks and Harbours Act 1966 applies and, in a case where such a question is referred to a tribunal by a sheriff, any party to the proceedings before the court in which the question arose ;

" person entitled to appear " means a party and any person who, under section 51(5) of the Docks and Harbours Act 1966, is entitled to appear and be heard before a tribunal on a reference under the said section 51 ;

" the President " means the President of the Industrial Tribunals (Scotland) or the person nominated by the Lord President of the Court of Session to discharge for the time being the functions of the President ;

" the Register " means the Register of References and Decisions kept in pursuance of these Regulations ;

" respondent " means a party to the proceedings before a tribunal other than the applicant ;

" Rule " means a Rule of Procedure contained in the Schedule to these Regulations ;

" the Secretary of the Tribunals " and " an Assistant Secretary of the Tribunals " mean respectively the persons for the time being acting as the Secretary, or as an Assistant Secretary, of the Central Office of the Industrial Tribunals (Scotland) ;

" tribunal " means an industrial tribunal (Scotland) established in pursuance of the Industrial Tribunals (Scotland) Regulations 1965 and in relation to any proceedings means the tribunal to which the proceedings have been referred by the President or by a member of the panel of chairmen for the time being nominated by the President for that purpose.

(3) A form referred to by number means the form so numbered in the Appendix to the Schedule to these Regulations.

Procedure of tribunals

3.—(1) The Rules of Procedure contained in the Schedule to these Regulations shall have effect in relation to proceedings to which this Regulation applies.

(2) This Regulation applies to proceedings in pursuance of references under section 51 of the Docks and Harbours Act 1966 (which provides for the reference of disputes about the meaning of " dock work " to a tribunal) being proceedings—

(*a*) in relation to a port ; or

(*b*) to determine a question referred by a court,

in Scotland.

Proof of decisions of tribunals

4. The production in any proceedings in a court of a document purporting to be certified by the Secretary of the Tribunals to be a true copy of

(a) S.I. 1965/1157 (1965 II, p. 3266).

an entry of a decision in the Register shall, unless the contrary is proved, be sufficient evidence of the document and of the facts stated therein.

2nd March 1967.

R. J. Gunter,
Minister of Labour.

Regulation 3

SCHEDULE

Rules of Procedure

Form of Reference

1. Proceedings for the determination by a tribunal of any question shall be instituted by the applicant or a sheriff sending to the Secretary of the Tribunals a form of reference which shall be substantially in accordance with Form 1 and shall set out the question for determination by a tribunal.

Registering of form of reference

2. Upon receiving a form of reference the Secretary of the Tribunals shall enter particulars of it in the Register and shall forthwith send a copy of it to the respondent or respondents and to the Board and the licensing authority for the port in question (but not to either of them which is the applicant) and shall inform the same persons and the applicant in writing of the case number of the form of reference entered in the Register (which shall thereafter constitute the title of the proceedings) and of the address to which notices and other communications to the Secretary of the Tribunals shall be sent. The copy of the form of reference sent by the Secretary of the Tribunals to a respondent, the Board and the licensing authority shall be accompanied by a notice substantially in accordance with Form 2.

Power to require further particulars and attendance of witnesses and to order recovery of documents

3.—(1) The tribunal may on the application of a party or of the Board or of the licensing authority for the port in question (whether or not a party), or of a person qualified under Rule 6 to represent him or it at the hearing of the reference, made either by notice to the Secretary of the Tribunals or at the hearing—

(*a*) require a party or the Board or the said licensing authority to furnish in writing to another party or to the Board or the said licensing authority further particulars of the grounds on which he or it relies and of any facts and contentions relevant thereto;

(*b*) grant to a party or to the Board or to the said licensing authority such a commission and diligence for the recovery of documents as might be granted by the sheriff;

(*c*) require the attendance of any person (including a party) as a witness or require the production of any document relating to the question to be determined;

and may appoint the time at or within which or the place at which any act required in pursuance of this Rule is to be done.

(2) A person on whom a requirement has been made under paragraph (1)(*b*) of this Rule on an *ex parte* application, and a person on whom a requirement has been made under paragraph (1)(*c*) of this Rule, may apply to the tribunal to vary or set aside the requirement. No such application to vary or set aside shall be entertained in a case where a time has been appointed under paragraph (1) of this Rule in relation to the requirement unless it is made before the time or, as the case may be, expiration of the time so appointed. Notice of the application in accordance with Rule 10(2) shall be given to the person on whose application the requirement was made.

(3) Every document containing a requirement under sub-paragraph (*b*) or sub-paragraph (*c*) of paragraph (1) of this Rule shall contain a reference to the fact that under section 46(4) of the 1965 Act any person who without reasonable excuse fails to comply with any such requirement is liable on summary conviction to a fine not exceeding £50 or imprisonment for a term not exceeding three months or both.

Time and place of hearing

4.—(1) The President (or a member of the panel of chairmen for the time being nominated by the President for this purpose) shall fix the date, time and place of the hearing and the Secretary of the Tribunals shall not less than 14 days before the date so fixed send to each party a notice substantially in accordance with Form 3. The Secretary of the Tribunals shall at the same time send a copy of the said notice to the Board and the licensing authority for the port in question (if they are not parties).

(2) In any case in which the President (or a member of the panel of chairmen nominated as aforesaid) so directs, the Secretary of the Tribunals shall also take such of the following steps as may be so directed, namely—

(*a*) publish in one or more newspapers circulating in the locality in which the port in question is situated notice of the hearing;

(*b*) send notice of the hearing to such persons as may be so directed;

(*c*) post notices of the hearing in a conspicuous place or conspicuous places in or near to the port in question,

but the requirement as to the period of notice contained in the foregoing paragraph of this Rule shall not apply to any such notices.

The hearing

5.—(1) The hearing of the proceedings shall take place in public unless the tribunal determines at the request of a party or of a person entitled to appear to hear the proceedings in private, but a member of the Council on Tribunals or of its Scottish Committee shall be entitled to attend the hearing in his capacity as such member.

(2) If a party shall desire to submit representations in writing for consideration by the tribunal at the hearing that party shall send such representations to the Secretary of the Tribunals not less than 7 days before the hearing and shall at the same time send a copy thereof to the Board and the licensing authority for the port in question (if not parties) and to the other party or parties.

Representation

6. At the hearing a person entitled to appear may appear and may be heard in person or be represented by counsel or solicitor or by a representative of a trade union or of an employers' association or with the leave of the tribunal by any other person.

Procedure at hearing

7.—(1) Persons entitled to appear shall be entitled to make opening statements, to call witnesses, to cross-examine any witnesses called by any other person entitled to appear and to address the tribunal.

(2) A person entitled to appear may if he so desires give evidence on his own behalf.

(3) If a party shall fail to appear or to be represented at the time and place fixed for the hearing, the tribunal may dispose of the reference in the absence of that party or may adjourn the hearing to a later date: Provided that before disposing of a reference in the absence of a party the tribunal shall consider any representations submitted by that party in pursuance of Rule 5(2).

(4) The tribunal may require any witnesses to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form.

Decision of Tribunal

8.—(1) A decision of the tribunal may be taken by a majority thereof and, if in accordance with Regulation 5(1) of the Industrial Tribunals (Scotland) Regulations 1965 the tribunal shall be constituted of two members only, the chairman shall have a second or casting vote.

(2) The decision of the tribunal shall be recorded in a document signed by the chairman which shall state the facts which it finds and the reasons for its decision.

(3) The clerk to the tribunal shall transmit the document signed by the chairman to the Secretary of the Tribunals who shall as soon as may be enter it in the Register, and shall send a copy (certified by him to be a true copy) of the entry to each of the parties, to the Board and the licensing authority for the port in question (whether or not parties), to the persons entitled to appear who did so appear and, where the question was referred to the tribunal by a sheriff, to that sheriff.

(4) The Register shall be kept at the Office of the Tribunals and shall be open to the inspection of any person without charge at all reasonable hours.

(5) The chairman of the tribunal shall have power by certificate under his hand to correct in documents recording the tribunal's decisions clerical errors or errors arising therein from any accidental slip or omission.

(6) The clerk to the tribunal shall send a copy of any document so corrected and the certificate of the chairman to the Secretary of the Tribunals who shall thereupon make such correction as may be necessary in the Register and shall send a copy (certified by him to be a true copy) of the corrected entry or of the corrected specification of the reasons, as the case may be, to each person and the sheriff who under paragraph (3) of this Rule, was sent a copy of the decision in question.

Expenses

9.—(1) The decision of a tribunal may include—

(*a*) an order that a party, or any other person entitled to appear who did appear, shall pay to another party or such person either a specified sum in respect of the expenses incurred by that other party or person or, in default of agreement, the taxed amount of those expenses;

(*b*) an order that a party, or any other person entitled to appear who did appear, shall pay to the Minister of Labour a specified sum in respect of the whole, or any part of, any allowances (other than allowances paid to members of tribunals) paid by the Minister of Labour under section 12(3) of the Industrial Training Act 1964(a) (as amended by section 46(5) of the 1965 Act) to any person for the purposes of, or in connection with, his attendance at the tribunal.

(2) Any expenses required by an order under paragraph (1) of this Rule to be taxed may be taxed in the sheriff court according to such of the scales prescribed by sheriff court rules for civil proceedings in the sheriff court as shall be directed by the order.

Miscellaneous powers of tribunal

10.—(1) The tribunal may, if it thinks fit,—

(*a*) extend the time appointed by these Rules for doing any act notwithstanding (subject to the second sentence in Rule 3(2)) that the time appointed may have expired;

(*b*) postpone the day or time fixed for, or adjourn, the hearing of the reference or any application;

(*c*) if the applicant shall at any time give notice of the abandonment of the reference, dismiss the proceedings.

(2) Subject to the provisions of these Rules the tribunal may regulate its own procedure and may, if it thinks fit, before granting an application under

(a) 1964 c. 16.

Rule 3 or 11 require the party or the Board or the licensing authority for the port in question (whether or not a party) making the application to give notice of it to the other party or parties and to the Board and the said licensing authority. The notice shall give particulars of the application and indicate the address to which and the time within which any objection to the application shall be made being an address and time specified for the purposes of the application by the tribunal.

(3) Any act (other than the hearing of a reference) required or authorised by these Rules to be done by the tribunal may be done by, or on the direction of, the President, the chairman of the tribunal or a member of the panel of chairmen for the time being nominated by the President for this purpose.

(4) Rule 9 shall apply in the case of an order dismissing proceedings under paragraph (1)(*c*) of this Rule as it applies in the case of a decision of a tribunal.

(5) Any functions of the Secretary of Tribunals other than those mentioned in Rule 2 or 8 may be performed by an Assistant Secretary of the Tribunals.

Applications

11.—(1) An application to the tribunal for an extension of the time appointed by these Rules for doing any act may (except in a case to which Rule 3(2) applies) be made by a party or by the Board or the licensing authority for the port in question (whether or not a party) either before or after the expiration of any time so appointed.

(2) A party or the Board or the said licensing authority may at any time apply to the tribunal for an order on any matter arising in connection with the proceedings.

(3) An application under the foregoing provisions of this Rule shall be made by sending to the Secretary of the Tribunals a notice of application, which shall state the title of the proceedings and shall set out the grounds of the application.

(4) The Secretary of the Tribunals shall give notice to both or all the parties and to the Board and the said licensing authority of any extension of time granted under Rule 10(1)(*a*) or any order given in pursuance of this Rule.

Notices, etc.

12.—(1) Any notice given under these Rules shall be in writing and all notices and documents required or authorised by these Rules to be sent or given to any person hereinafter mentioned may be sent by post by means of the recorded delivery service or delivered to or at—

(*a*) in the case of a document directed to the Secretary of the Tribunals, the Office of the Tribunals or such other office as may be notified by the Secretary of the Tribunals to the parties and to the Board and the licensing authority for the port in question (whether or not parties);

(*b*) in the case of a document directed to the Board, the principal office of the Board;

(*c*) in the case of a document directed to a sheriff, the office of the sheriff clerk;

(*d*) in the case of a document directed to a person (other than the Board), his address for service specified in the form of reference or in a notice under paragraph (2) of this Rule (if he is the applicant) or (if no address for service is so specified or if the person is not the applicant), his last known address or place of business in the United Kingdom or, if a corporation, the corporation's registered or principal office,

and if sent or given to the authorised representative of a person shall be deemed to have been sent or given to that person.

(2) An applicant may at any time by notice to the Secretary of the Tribunals and to the other party or parties and to the Board and the licensing authority for the port in question (if not parties) change his address for service under these Rules.

APPENDIX

FORM 1

INDUSTRIAL TRIBUNALS (DOCK WORK) (SCOTLAND) REGULATIONS 1967

FORM OF REFERENCE FOR THE DETERMINATION OF A QUESTION UNDER SECTION 51 OF THE DOCKS AND HARBOURS ACT 1966

To: The Secretary of the Central Office of the Industrial Tribunals (Scotland).

I/We* (*a*) The National Dock Labour Board

(*b*) The Licensing Authority for .....

(*c*) The Sheriff of .....

(*d*) .....

(*e*) The ..... Union on behalf of .....

hereby refer under section 51 of the Docks and Harbours Act 1966 and the above-mentioned Regulations for a decision of a tribunal the following question:—

The name(s) and address(es) of the person(s) with whom the applicant is in dispute or of the parties to the proceedings before the court (as the case may be) are—

† All communications with regard to this reference should be addressed to the applicant at, or, where the reference is by a Sheriff, to the parties to the dispute at:—

Name ..... Address .....

Name ..... Address .....

Dated ..... 19.....

Signed .....‡

For and on behalf of applicant (Delete if inapplicable)

* State whichever is applicable, giving full name and address.

† When the proceedings are heard by the tribunal the parties may appear and be heard in person or be represented by counsel or solicitor or by a representative of a trade union or of an employers' association or with the leave of the tribunal by any other person.

‡ State position of person signing.

Section 51(2) of the Docks and Harbours Act 1966 provides that in the case of a person who is neither the National Dock Labour Board, nor a licensing authority nor a person who employs others on dock work in, or in the vicinity of, a port or on work of any description to which, or at a place to which, the dispute relates a question may only be referred to an industrial tribunal under that section by a trade union (within the meaning of the Trade Union Act 1913). But the fact that the question is so referred is not to make the trade union a party to the dispute or prevent the person on whose behalf the question is so referred from being such a party.

FORM 2

INDUSTRIAL TRIBUNALS (DOCK WORK) (SCOTLAND) REGULATIONS 1967

NOTICE OF REFERENCE

Case No. .....

*Central/*Regional Office of the Industrial Tribunals (Scotland),

.....

.....

I send you herewith a copy of a form of reference in which a decision of a tribunal is sought.

You are a party to the proceedings/You are a person entitled to appear and be heard before the tribunal on the reference.*

The proceedings on this reference will be regulated by the rules of procedure contained in the Industrial Tribunals (Dock Work) (Scotland) Regulations 1967. The case number of this reference which is indicated above should be quoted in any communication to me with regard to these proceedings.

When the proceedings are heard by the tribunal the parties and any person entitled to appear and be heard may appear and be heard in person or be represented by counsel or solicitor or by a representative of a trade union or of an employers' association or with the leave of the tribunal by any other person.

Dated ..... 19.....

Signed .....

*Secretary/Assistant Secretary.

to the Respondent(s) .....

and to the National Dock Labour Board

and to

[Licensing Authority]*

* Delete as necessary.

FORM 3

INDUSTRIAL TRIBUNALS (DOCK WORK) (SCOTLAND) REGULATIONS 1967

NOTICE OF HEARING

Case No. .....

*Central/*Regional Office of the Industrial Tribunals (Scotland),

.....

.....

NOTICE IS HEREBY GIVEN that the form of reference of .....

..... dated .....

will be heard by an Industrial Tribunal at .....

on the..... day of ..... 19..... at .....o'clock in the ..... noon or as soon thereafter as may be.

Unless a party receives from me a communication to the contrary, he should in his own interest appear at the hearing with his witnesses (if any) at the above time and place and bring with him all documents on which he intends to rely.

Each party is entitled to be represented by counsel or solicitor or by a representative of a trade union or of an employers' association or with the leave of the tribunal by any other person.

If for any reason a party does not propose, or is unable, to appear at the hearing either in person or by representative, that party should *immediately* inform me in writing at the address mentioned at the head of this notice, stating the case number of the proceedings and the reasons for the proposal not to, or the inability to, attend or to be represented.

The Rules provide that if a party desires to submit representations in writing for consideration by the tribunal at the hearing that party shall send such representations to the Secretary of the Tribunals not less than 7 days before the hearing and shall at the same time send a copy thereof to the National Dock Labour Board and the licensing authority for the port in question (if not parties) and to the other party or parties. If any party fails to attend the hearing, the tribunal may dispose of the reference in his absence, but in such case the tribunal will consider any written representations so submitted.

Dated ..... 19.....

Signed .....

*Secretary/Assistant Secretary.

* Delete if inapplicable.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations regulate the procedure of industrial tribunals for Scotland on references under section 51 of the Docks and Harbours Act 1966 of questions about the meaning of "dock work" for the purposes of any scheme in force under the Dock Workers (Regulation of Employment) Act 1946.