# 1967 No. 449

## HARBOURS, DOCKS, PIERS AND FERRIES

## The Licensing of Port Employers (Inquiries Procedure) Regulations 1967

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| *Made - - - -* | 21*st March* 1967 |
| *Laid before Parliament* | 3*rd April* 1967 |
| *Coming into Operation* | 10*th April* 1967 |

The Minister of Transport, in exercise of the powers conferred on her by section 52(6) of the Docks and Harbours Act 1966(a), and of all other enabling powers hereby makes the following Regulations:—

*Citation, commencement and interpretation*

**1.**—(1) These Regulations may be cited as the Licensing of Port Employers (Inquiries Procedure) Regulations 1967 and shall come into operation on 10th April 1967.

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

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

"the Act" means the Docks and Harbours Act 1966;

"appeal" means any appeal made to the Minister under any provision of Part I (Control of Employment of Dock Workers) of the Act;

"appointed person" means a person appointed by the Minister to hold an inquiry;

"the Board" means the National Dock Labour Board or any other body for the time being constituted or prescribed under the Dock Workers (Regulation of Employment) Act 1946(c) to be responsible for the administration of any scheme under that Act;

"the Council" means the National Ports Council;

"employer" means an applicant for the grant or renewal of a licence under the Act, the holder of a licence or a person to whom a licence is desired to be transferred;

"inquiry" means an inquiry with respect to which these Regulations have effect;

"licensing authority" means a body having the function of issuing licences under the Act;

(a) 1966 c. 28. (b) 1889 c. 63. (c) 1946 c. 22.

"objection" means an objection made by the Council under section 7(3) of the Act;

"the Minister" means the Minister of Transport.

*Application of Regulations*

**2.** These Regulations shall have effect with respect to the proceedings at or in connection with inquiries held in connection with:—

(*a*) the consideration and determination by the Minister of any appeal or objection;

(*b*) any other matter about which the Minister has functions under Part I of the Act.

*Notification of Inquiry*

**3.**—(1) A date, time and place for the holding of the inquiry shall be fixed and may be varied by the Minister, who shall give or cause to be given not less than 28 days' written notice of such date, time and place to every person entitled under these Regulations to appear and be heard at the inquiry.

(2) In any case in which the Minister so determines, she may require the licensing authority concerned to take one or more of the following steps, namely:—

(*a*) to publish in one or more newspapers circulating in the locality in which the port or ports in question are situated notice of the inquiry;

(*b*) to send notice of the inquiry to such persons as she may specify;

(*c*) to post notice of the inquiry in a conspicuous place or conspicuous places in or near to the port or ports in question;

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

*Appearances at Inquiry*

**4.**—(1) The persons entitled to appear and be heard at the inquiry shall be—

(*a*) any employer whose appeal occasioned the inquiry;

(*b*) the licensing authority concerned;

(*c*) any person entitled to notice of the appeal under section 7(7) of the Act;

(*d*) the Council;

(*e*) the Board.

(2) Any other person may appear and be heard at the inquiry at the discretion of the appointed person.

*Power to require attendance of witnesses and copies of documents to be furnished*

**5.**—(1) The appointed person may, on the application of a person entitled to appear and be heard at an inquiry or otherwise, cause to be served on any person appearing to him to be likely to be able to give material evidence or to produce any document likely to be material evidence, a notice requiring that person to attend at the inquiry at the time and place specified in the notice to give evidence or produce the document.

(2) The appointed person may, on the application of a person entitled to appear and be heard at an inquiry, or of a person qualified under Regulation 6

to represent him at the inquiry, made either by notice to the appointed person or at the inquiry, require any other person entitled to appear and be heard at the inquiry by notice served on him to furnish to the first-mentioned person so entitled a copy of any document appearing to the appointed person to be likely to be relevant to the subject matter of the inquiry and may appoint the time at or within which the copy of the document is to be furnished, and may direct that the original of any such document shall before the inquiry be produced to the first-mentioned person if he so requires. Before granting any such application the appointed person may, if he thinks fit, require the person making the application to give notice of it to such other person as the appointed person may specify. Such 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 purpose by the appointed person. If after any such notice is given the appointed person decides to hear the person making the application in support of it he shall afford to any person who has submitted an objection in accordance with such notice an opportunity to be heard in support of his objection.

(3) The appointed person may extend or postpone any time appointed by him for the furnishing of a copy of a document under paragraph (2) of this Regulation notwithstanding that the time so appointed may have expired or passed.

(4) Nothing in this Regulation shall be interpreted as requiring any person to give any evidence or to produce any document which he could not be compelled to give or produce in proceedings before the High Court, or, if the inquiry is held in Scotland, the Court of Session.

(5) A person on whom a requirement has been made under paragraph (1) of this Regulation and a person on whom a requirement has been made under paragraph (2) of this Regulation on an ex parte application, may apply to the appointed person 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 this Regulation in relation to the requirement) unless it is made before the time so appointed or, as the case may be, the expiration of that time. Notice of the application shall be given to the person on whose application the requirement was made.

(6) Every notice containing a requirement under paragraph (1) or (2) of this Regulation shall contain a reference to the fact that under section 52(7) of the 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.

*Representation*

**6.**—(1) A person entitled or permitted by the appointed person to appear and be heard at an inquiry may appear 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 appointed person by any other person.

(2) A body corporate may appear by their clerk or by any other officer appointed for the purpose by them, or by counsel or solicitor.

(3) Where there are two or more persons having a similar interest in the matter under inquiry, the appointed person may allow one or more persons to appear on behalf of some or all persons so interested.

*Procedure at Inquiry*

**7.**—(1) Except as otherwise provided in these Regulations, the procedure at and in connection with the inquiry shall be such as the appointed person shall in his discretion determine.

(2) The inquiry shall take place in public, unless the appointed person determines at the request of any person appearing at the inquiry that the inquiry shall be in private, but in any case a member of the Council on Tribunals shall be entitled to attend the inquiry in his capacity as such member.

(3) A person entitled to appear and be heard may if he so desires give evidence on his own behalf.

(4) If a person entitled to appear and be heard at an inquiry shall desire to submit representations in writing for consideration by the appointed person at the inquiry that person shall send such representations to the appointed person not less than seven days before the inquiry and shall at the same time send a copy thereof to all other persons entitled to appear and be heard at the inquiry. A copy of every such representation shall be made available by the appointed person at the inquiry for inspection by any person appearing.

(5) If any person entitled to appear and be heard at the inquiry fails so to appear the appointed person may at his discretion proceed with the inquiry in the absence of that person or may adjourn the inquiry to a later date: provided that before concluding an inquiry in the absence of a person entitled to appear and be heard the appointed person shall consider any written representations submitted by that person in pursuance of the last foregoing paragraph of this Regulation.

(6) Where the appointed person so requires, a witness shall give evidence on oath, and for that purpose the appointed person may administer an oath in due form.

(7) The appointed person may from time to time adjourn the inquiry and, if the date, time and place of the adjourned inquiry are announced before the adjournment, no further notice shall be required.

*Procedure after Inquiry*

**8.**—(1) The appointed person shall after holding the inquiry report in writing to the Minister on his findings at the inquiry and shall recommend to the Minister what decision the Minister should make in the matter.

(2) Where the Minister—

(*a*) differs from the appointed person on a finding of fact, or

(*b*) after the close of the inquiry takes into consideration any new evidence (including expert opinion on a matter of fact) or any new issue of fact (not being a matter of government policy) which was not raised at the inquiry,

and by reason thereof is disposed to disagree with a recommendation made by the appointed person, she shall not come to a decision which is at variance with any such recommendation without first notifying such of the persons entitled to appear and be heard at the inquiry who appeared at the inquiry of her disagreement and the reasons for it and affording them an opportunity of making representations in writing within 21 days or (if the Minister has taken into consideration any new evidence or any new issue of fact, not being a matter of government policy) of asking within 21 days for the re-opening of the inquiry.

(3) The Minister may in any case if she thinks fit cause the inquiry to be re-opened, and shall cause it to be re-opened if asked to do so in accordance with the last foregoing paragraph; and, if the inquiry is re-opened, Regulation 3 shall apply as it applied to the original inquiry, with the substitution in paragraph (1) of "21" for "28".

(4) (*a*) The Minister shall notify her decision, and the reasons therefor, in writing—

(i) in the case of a decision relating to an appeal on an application made before the commencement of section 1 of the Act, or on a proposal so made by a licensing authority, to all the applicants for a licence for the port in question,

(ii) in the case of a decision relating to any subsequent application for a licence, to the applicant,

(iii) in every case to the licensing authority, the Council and the Board,

and, where a copy of the appointed person's report is not sent with the notification of the decision, the notification shall be accompanied by a summary of the appointed person's conclusions and recommendations.

(*b*) If any person entitled to be notified of the Minister's decision under this paragraph has not received a copy of the appointed person's report, he shall be supplied with a copy thereof on written application made to the Minister within 28 days from the date of her decision.

(*c*) For the purposes of this paragraph "report" does not include documents, photographs or plans appended to the report.

*Withdrawal of appeals*

**9.** Any person may withdraw his appeal by notice given to the Minister at any time before the decision of the Minister is notified to him and in that event the appeal shall be treated as disposed of at the time it is withdrawn.

*Minister's expenses*

**10.**—(1) The Minister may recover the whole or any part of the expenses incurred by her in relation to an inquiry from all or any of the following persons:—

(*a*) the persons appearing at the inquiry;

(*b*) any appellant, whether appearing or not, whose appeal occasioned the inquiry;

(*c*) the licensing authority.

(2) Where the Minister decides to recover any expenses under paragraph (1) of this Regulation, she may make such apportionment thereof as she thinks fit and shall serve on each person from whom expenses are to be recovered a notice specifying the amount of the expenses which that person is liable to pay and the date on which such amount is to be paid.

(3) Any amount specified in a notice served under paragraph (2) of this Regulation shall be a debt due to the Minister from the person liable to pay it and recoverable accordingly.

*Costs and Expenses*

**11.**—(1) The Minister may on the recommendation of the appointed person in his report of the inquiry, order that any person specified in Regulation 8(1) shall pay to any other such person either a specified sum in respect of the costs or expenses incurred by that other person or the amount of those costs or expenses to be taxed in default of agreement.

(2) Any costs or expenses required by an order under paragraph (1) of this Regulation to be taxed may be taxed in the county court according to such of the scales prescribed by county court rules for proceedings in the county court as shall be directed by the order, or, if the inquiry is held in Scotland, may be taxed in the sheriff court according to such of the scales prescribed by sheriff court rules for civil proceedings as shall be directed by the order.

(3) Any specified sum ordered to be paid under paragraph (1) of this Regulation and any costs or expenses taxed under the last foregoing paragraph of this Regulation shall be a debt due from the person ordered to pay them to the person to whom they are ordered to be paid and shall be recoverable accordingly.

*Notices*

**12.** The provisions of section 55 of the Act shall apply in relation to the sending of all notices and documents required or authorised to be served or sent by these Regulations.

Given under the Official Seal of the Minister of Transport the 21st March 1967.

(L.S.) *Barbara Castle,*
Minister of Transport.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations prescribe the procedure to be followed at and in connection with inquiries held in connection with appeals and objections to the Minister of Transport under Part I of the Docks and Harbours Act 1966 or any other matter about which the Minister of Transport has functions under Part I of the Act.