STATUTORY INSTRUMENTS

1967 No. 1747

INDUSTRIAL TRAINING

The Industrial Training Levy (Agricultural, Horticultural and Forestry) Order 1967

Made - - - -	23*rd November* 1967
Laid before Parliament	1*st December* 1967
Coming into Operation	13*th December* 1967

The Minister of Labour after approving proposals submitted by the Agricultural, Horticultural and Forestry Industry Training Board for the imposition of a levy on employers in the agricultural, horticultural and forestry industry and by virtue of the powers conferred on him by section 4 of the Industrial Training Act 1964(a) and of all other powers enabling him in that behalf hereby makes the following Order:—

Title and commencement

1. This Order may be cited as the Industrial Training Levy (Agricultural, Horticultural and Forestry) Order 1967 and shall come into operation on 13th December 1967.

Interpretation

2.—(1) In this Order unless the context otherwise requires:—

(*a*) "agricultural, horticultural and forestry establishment" means an establishment in Great Britain engaged wholly or mainly in the agricultural, horticultural and forestry industry for a total of twenty-seven or more weeks in the period of twelve months that commenced on 6th April 1966 or, being an establishment that commenced to carry on business in the said period, for a total number of weeks exceeding one half of the number of weeks in the part of the said period commencing with the day on which business was commenced and ending on the last day thereof;

(*b*) "the agricultural, horticultural and forestry industry" means any one or more of the activities which, subject to the provisions of paragraph 2 of Schedule 1 to the industrial training order, are specified in paragraph 1 of that Schedule as the activities of the agricultural, horticultural and forestry industry;

(*c*) "an appeal tribunal" means an industrial tribunal established under section 12 of the Industrial Training Act 1964;

(*d*) "assessment" means an assessment of an employer to the levy;

(*e*) "the Board" means the Agricultural, Horticultural and Forestry Industry Training Board;

(*f*) "employer" means a person who at any time in the first levy period is an employer in the agricultural, horticultural and forestry industry of one or more regular whole-time employees;

(a) 1964 c. 16.

(*g*) " the first levy period " means the period commencing with the day upon which this Order comes into operation and ending on 31st August 1968 ;

(*h*) " the industrial training order " means the Industrial Training (Agricultural, Horticultural and Forestry Board) Order 1966(a) ;

(*i*) " the levy " means the levy imposed by the Board in respect of the first levy period ;

(*j*) " notice " means a notice in writing ;

(*k*) " regular whole-time employee " means a person engaged under any contract of employment or apprenticeship normally involving that person's working thereunder for an aggregate of forty or more hours weekly ;

(*l*) " the relevant date " means 5th April 1967 ;

(*m*) other expressions have the same meaning as in the industrial training order.

(2) Any reference in this Order to an establishment that commences to carry on business or that ceases to carry on business shall not be taken to apply where the location of the establishment is changed but its business is continued wholly or mainly at or from the new location, or where the suspension of activities is of a temporary or seasonal nature.

(3) For the purposes of this Order, no regard shall be had to any employee being—

(*a*) a male person aged sixty-five years or more on the relevant date ; or

(*b*) a female person aged sixty years or more on the said date.

(4) The Interpretation Act 1889(b) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Imposition of the Levy

3.—(1) The levy to be imposed by the Board on employers in respect of the first levy period shall be assessed in accordance with the provisions of this Article.

(2) The levy shall be assessed by the Board separately in respect of each agricultural, horticultural and forestry establishment of an employer, but in agreement with the employer one assessment may be made in respect of any number of such establishments, in which case those establishments shall be deemed for the purposes of that assessment to constitute one establishment.

(3) Subject to the provisions of this Article, the levy assessed in respect of an agricultural, horticultural and forestry establishment of an employer shall be an amount equal to that obtained by multiplying the sum of £6 by the number of regular whole-time employees employed, or deemed under the provisions of the next following paragraph to have been employed, by the employer at or from the establishment on the relevant date.

(4) In the case where the business of an agricultural, horticultural and forestry establishment is carried on by an employer (either solely or jointly with another person or persons) in succession to another person or persons, a person employed at or from the establishment on the relevant date by a person other than the employer carrying on the said business on the day upon which this Order comes into operation shall be deemed, for the purposes of this Article, to have been employed by the last mentioned employer.

(a) S.I. 1966/969 (1966 II, p. 2333). (b) 1889 c. 63.

(5) The amount of the levy imposed in respect of an agricultural, horticultural and forestry establishment that ceases to carry on business in the first levy period shall be in the same proportion to the amount that would otherwise be due under paragraph (3) of this Article as the number of days between the commencement of the said levy period and the date of cessation of business (both dates inclusive) bears to the number of days in the said levy period.

(6) For the purposes of this Article, no regard shall be had to any regular whole-time employee employed wholly as follows—

(*a*) by a Milk Marketing Board in any activities, not being either activities mentioned in sub-paragraph (*a*) (*c*) or (*f*) of paragraph 1 of Schedule 1 to the industrial training order (which sub-paragraphs specify respectively certain operations in agriculture or horticulture or in forestry, and the provision of certain services of artificial insemination for livestock or in respect of milk recording) or related activities incidental or ancillary to activities mentioned in any of the said sub-paragraphs ;

(*b*) by a University Faculty of Agriculture, Horticulture or Rural or Veterinary Science in any activities mentioned in paragraph 1(*b*) of the said Schedule (which specifies operations in agriculture or horticulture or in forestry carried out by a body of persons for the purposes of education or training therein) ;

(*c*) in any activities mentioned in paragraph 1(*b*) of the said Schedule and as a person giving or receiving instruction in agriculture or horticulture or in forestry;

(*d*) by a local authority in any activities mentioned in paragraph 1(*l*) or 1(*m*) of the said Schedule, not being activities mentioned in head (ii) or head (iv) of paragraph 3(*o*) of that Schedule ; or

(*e*) in the supply of food or drink to persons for immediate consumption.

Assessment Notices

4.—(1) The Board shall serve an assessment notice on every employer assessed to the levy, but one notice may comprise two or more assessments.

(2) Any amount assessed in accordance with Article 3(5) of this Order shall be rounded down to the nearest £1.

(3) An assessment notice shall state the Board's address for the service of a notice of appeal or of an application for an extension of time for appealing.

(4) An assessment notice may be served on the person assessed to the levy either by delivering it to him personally or by leaving it, or sending it to him by post, at his last known address or place of business in the United Kingdom or, if that person is a corporation, by leaving it, or sending it by post to the corporation, at such address or place of business or at its registered or principal office.

Payment of the Levy

5.—(1) Subject to the provisions of this Article and of Articles 6 and 7, the amount of each assessment appearing in an assessment notice served by the Board shall be due and payable to the Board one month after the date of the notice.

(2) The amount of an assessment shall not be recoverable by the Board until there has expired the time allowed for appealing against the assessment by Article 7(1) of this Order and any further period or periods of time that

the Board or an appeal tribunal may have allowed for appealing under paragraph (2) or (3) of that Article or, where an appeal is brought, until the appeal is decided or withdrawn.

Withdrawal of Assessment

6.—(1) The Board may, by a notice served on the person assessed to the levy in the same manner as an assessment notice, withdraw an assessment if that person has appealed against that assessment under the provisions of Article 7 of this Order and the appeal has not been entered in the Register of Appeals kept under the appropriate Regulations specified in paragraph (5) of that Article.

(2) The withdrawal of an assessment shall be without prejudice to the power of the Board to serve a further assessment notice in respect of any establishment to which that assessment related.

Appeals

7.—(1) A person assessed to the levy may appeal to an appeal tribunal against the assessment within one month from the date of the service of the assessment notice or within any further period or periods of time that may be allowed by the Board or an appeal tribunal under the following provisions of this Article.

(2) The Board by notice may for good cause allow a person assessed to the levy to appeal to an appeal tribunal against the assessment at any time within the period of four months from the date of the service of the assessment notice or within such further period or periods as the Board may allow before such time as may then be limited for appealing has expired.

(3) If the Board shall not allow an application for extension of time for appealing, an appeal tribunal shall upon application made to the tribunal by the person assessed to the levy have the like powers as the Board under the foregoing paragraph.

(4) In the case of an establishment that ceases to carry on business in the first levy period on any day after the date of the service of the relevant assessment notice, the foregoing provisions of this Article shall have effect as if for the period of four months from the date of the service of the assessment notice mentioned in paragraph (2) of this Article there were substituted the period of six months from the date of the cessation of business.

(5) An appeal or an application to an appeal tribunal under this Article shall be made in accordance with the Industrial Tribunals (England and Wales) Regulations 1965(**a**) as amended by the Industrial Tribunals (England and Wales) (Amendment) Regulations 1967(**b**) except where the establishment to which the relevant assessment relates is wholly in Scotland in which case the appeal or application shall be made in accordance with the Industrial Tribunals (Scotland) Regulations 1965(**c**) as amended by the Industrial Tribunals (Scotland) (Amendment) Regulations 1967(**d**).

(6) The powers of an appeal tribunal under paragraph (3) of this Article may be exercised by the President of the Industrial Tribunals (England and Wales) or by the President of the Industrial Tribunals (Scotland) as the case may be.

(**a**) S.I. 1965/1101 (1965 II, p. 2805).
(**b**) S.I. 1967/301 (1967 I, p. 1040).
(**c**) S.I. 1965/1157 (1965 II, p. 3266).
(**d**) S.I. 1967/302 (1967 I, p. 1050).

Evidence

8.—(1) Upon the discharge by a person assessed to the levy of his liability under an assessment the Board shall if so requested issue to him a certificate to that effect.

(2) The production in any proceedings of a document purporting to be certified by the Secretary of the Board or any other person, being a member, officer or servant of the Board authorised to act in that behalf, to be a true copy of an assessment or other notice issued by the Board or purporting to be a certificate such as is mentioned in the foregoing paragraph of this Article shall, unless the contrary is proved, be sufficient evidence of the document and of the facts stated therein.

23rd November 1967.

R. J. Gunter,
Minister of Labour.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order gives effect to proposals submitted by the Agricultural, Horticultural and Forestry Industry Training Board to the Minister of Labour for the imposition of a levy upon employers in the agricultural, horticultural and forestry industry for the purpose of raising money towards the expenses of the Board.

The levy is to be imposed in respect of the first levy period commencing on the day upon which this Order comes into operation and ending on 31st August 1968. The levy will be assessed by the Board and there will be a right of appeal against an assessment to an industrial tribunal.