STATUTORY INSTRUMENTS

1971 No. 245

INDUSTRIAL TRAINING

The Industrial Training Levy (Agricultural, Horticultural and Forestry) Order 1971

Made - - -	*12th February* 1971
Laid before Parliament	*22nd February* 1971
Coming into Operation	*3rd March* 1971

The Secretary of State after approving proposals submitted by the Agricultural, Horticultural and Forestry Industry Training Board for the imposition of a further levy on certain employers in the agricultural, horticultural and forestry industry and in exercise of his powers under 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 1971 and shall come into operation on 3rd March 1971.

Interpretation

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

(*a*) "agriculture" has the same meaning as in section 109(3) of the Agriculture Act 1947(**b**) or, in relation to Scotland, as in section 86(3) of the Agriculture (Scotland) Act 1948(**c**) ;

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

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

(*d*) "the base period" means the period of twelve months that commenced on 6th April 1969 ;

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

(*f*) "business" means any activities of industry or commerce ;

(*g*) "charity" has the same meaning as in section 360 of the Income and Corporation Taxes Act 1970(**d**) ;

(*h*) "emoluments" means all emoluments assessable to income tax under Schedule E (other than pensions), being emoluments from which tax under that Schedule is deductible, whether or not tax in fact falls to be deducted from any particular payment thereof ;

(**a**) 1964 c. 16.
(**b**) 1947 c. 48.
(**c**) 1948 c. 45.
(**d**) 1970 c. 10.

(*i*) "employer" means a person who at any time in the third levy period is an employer in forestry or arboriculture activities ;

(*j*) "establishment" (except in sub-paragraphs (*k*) and (*m*) of this paragraph) means an establishment comprising forestry or arboriculture activities or a forestry or arboriculture establishment ;

(*k*) "establishment comprising forestry or arboriculture activities" means an establishment in Great Britain engaged in the base period mainly in agriculture for a total of twenty-seven or more weeks 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, at or from which persons were employed in the base period in forestry or arboriculture activities but does not include a forestry or arboriculture establishment ;

(*l*) "forestry or arboriculture activities" means any activities which, subject to the provisions of paragraph 2 of the Schedule to the industrial training order, are included amongst the activities of the agricultural, horticultural and forestry industry by virtue of sub-paragraph (*b*) or (*c*) of paragraph 1 of that Schedule ;

(*m*) "forestry or arboriculture establishment" means an establishment in Great Britain engaged in the base period wholly or mainly in forestry or arboriculture activities for a total of twenty-seven or more weeks 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 ;

(*n*) "the industrial training order" means the Industrial Training (Agricultural, Horticultural and Forestry Board) Order 1970(**a**) ;

(*o*) "the levy" means the levy imposed by the Board in respect of the third levy period ;

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

(*q*) "the third levy period" means the period commencing with the day upon which this Order comes into operation and ending on 31st March 1971.

(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) 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) Subject to the provisions of this Order, the levy to be imposed by the Board on employers in respect of the third levy period shall be assessed in accordance with the provisions of this Article.

(**a**) S.I. 1970/1886 (1970 III, p. 6227). (**b**) 1889 c. 63.

(2) The levy shall be assessed by the Board separately in respect of each establishment of an employer (not being an employer who is exempt from the levy by virtue of paragraph (8) of this Article), but in agreement with the employer one assessment may be made in respect of any number of establishments of the same kind that is to say either forestry or arboriculture establishments, or, as the case may be, establishments comprising forestry or arboriculture activities and where a levy is so assessed such establishments shall be deemed for the purposes of the assessment to constitute one establishment.

(3) The levy assessed in respect of an establishment shall be an amount equal to 1·6 per cent. of the sum of the reckonable emoluments (calculated as the case may require in accordance with the provisions of paragraph (4) or paragraph (5) of this Article).

(4) The reckonable emoluments in the case of a forestry or arboriculture establishment shall not include the emoluments of any person employed wholly in agriculture or wholly in the supply of food or drink to persons for immediate consumption or any part of the emoluments of any person who is employed partly in agriculture which is attributable to that part of his employment, but save as aforesaid the reckonable emoluments shall be the sum of the emoluments of all persons employed by the employer at or from the establishment in the base period.

(5) The reckonable emoluments in the case of an establishment comprising forestry or arboriculture activities shall be such part of the sum of the emoluments of persons employed by the employer at or from the establishment in the base period wholly or partly in forestry or arboriculture activities as is attributable to their employment in the said activities.

(6) In the case where the business of an 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 any time in the base period at or from the establishment 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.

(7) The amount of the levy imposed in respect of an establishment that ceases to carry on business in the third levy period shall be in the same proportion to the amount that would otherwise be due under the preceding provisions 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.

(8) There shall be exempt from the levy—

(*a*) an employer in whose case the sum of reckonable emoluments in respect of the establishment or establishments of the employer is less than £500 ;

(*b*) a charity.

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) The amount of any assessment payable under an assessment notice shall be rounded down to the nearest fifty new pence.

(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 last foregoing paragraph.

(4) In the case of an establishment that ceases to carry on business in the third 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.

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.

Signed by order of the Secretary of State.

12th February 1971.

Paul Bryan,
Minister of State,
Department of Employment.

(**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).

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 Secretary of State for Employment for the imposition of a further levy upon certain employers in the industry for the purpose of raising money towards the expenses of the Board.

The levy is to be imposed in respect of the third levy period commencing on the day upon which this Order comes into operation and ending on 31st March 1971. Section 104 of the Agriculture Act 1970 provides that the Board's expenses attributable to the exercise of its functions in relation to activities in agriculture shall not be raised by levy. Accordingly agricultural activities are not taken into account. There will be a right of appeal against an assessment to an industrial tribunal.