1990 No. 624

INDUSTRIAL TRAINING

The Industrial Training Levy (Clothing and Allied Products) Order 1990

Made - - - -	*14th March 1990*
Laid before Parliament	*26th March 1990*
Coming into force	*23rd April 1990*

Whereas the Clothing and Allied Products Industry Training Board has submitted to the Secretary of State under section 11(1) of the Industrial Training Act 1982(a) ("the 1982 Act") proposals for the raising and collection of a levy;

And whereas in pursuance of section 11(3) of the 1982 Act the said proposals include provision for the exemption from the levy of employers who, in view of the small number of their employees, ought in the opinion of the Secretary of State to be exempted from it;

And whereas the Secretary of State estimates that the amount which, disregarding any exemptions, will be payable by virtue of this Order by any employer in the clothing and allied products industry, does not exceed an amount which the Secretary of State estimates is equal to one per cent. of the relevant emoluments, being the aggregate of the emoluments and payments intended to be disbursed as emoluments which have been paid or are payable by any such employer to or in respect of persons employed in the industry, in respect of the period specified in the said proposals as relevant, that is to say the period hereafter referred to in this Order as "the twenty-first base period";

Now, therefore, the Secretary of State in exercise of the powers conferred on him by sections 11(2), 12(3) and 12(4) of the 1982 Act and of all other powers enabling him in that behalf hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Industrial Training Levy (Clothing and Allied Products) Order 1990 and shall come into force on 23rd April 1990.

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) "assessment" means an assessment of an employer to the levy;

(c) "the Board" means the Clothing and Allied Products Industry Training Board;

(a) 1982 c.10; sections 11 and 12 were amended by the Employment Act 1989 (c.38), section 22(4) and Schedule 4, paragraphs 10 and 11 respectively.
(b) 1947 c.48.
(c) 1948 c.45.

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

(e) "charity" has the same meaning as in section 506 of the Income and Corporation Taxes Act 1988(a);

(f) "clothing and allied products establishment" means an establishment in Great Britain engaged in the twenty-first base period wholly or mainly in the clothing and allied products industry for a total of twenty-seven or more weeks or, being an establishment that commenced to carry on business in the twenty-first base 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;

(g) "the clothing and allied products industry" does not include any activities which have been transferred from the industry of the Board to the industry of another industrial training board by one of the transfer orders but save as aforesaid 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 clothing and allied products industry or, in relation to an establishment whose activities have been transferred to the industry of the Board by one of the transfer orders, any activities so transferred;

(h) "emoluments" means all emoluments assessable to income tax under Schedule E of the Income and Corporation Taxes Act 1988 (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;

(i) "employer" means a person who is an employer in the clothing and allied products industry at any time in the twenty-first levy period;

(j) "the industrial training order" means the Industrial Training (Clothing and Allied Products Board) Order 1969(b);

(k) "the levy" means the levy imposed by the Board in respect of the twenty-first levy period;

(l) "notice" means a notice in writing;

(m) "the transfer orders" means

(i) The Industrial Training (Transfer of the Activities of Establishments) (No. 3) Order 1976(c), and

(ii) the Industrial Training (Transfer of the Activities of Establishments) Order 1977(d)

(n) "the twenty-first base period" means the period of twelve months that commenced on 6th April 1989;

(o) "the twenty-first levy period" means the period commencing with the day upon which this Order comes into force and ending on 31st March 1991.

(2) Any reference in this Order to persons employed at or from a clothing and allied products establishment shall in any case where the employer is a company be construed as including a reference to any director of the company (or any person occupying the position of director by whatever name he was called) who was, at the material time, in receipt of a salary from the company.

(3) 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.

Imposition of the levy

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

(2) Subject to the provisions of this article, the levy shall be assessed by the Board in respect of each employer and the amount thereof shall be equal to 0.1 per cent. of the sum

(a) 1988 c.1.
(b) S.I. 1969/1375, amended by S.I. 1982/920.
(c) S.I. 1976/2110.
(d) S.I. 1977/1951.

of the emoluments of all the persons employed by the employer at or from the relevant establishment or establishments (that is to say the clothing and allied products establishment or establishments of the employer other than one which is an establishment of an employer who is exempted by virtue of paragraph (3) of this article) in the twenty-first base period.

(3) There shall be exempt from the levy:—

(a) an employer in respect of whom the sum of the emoluments of the persons mentioned in the last foregoing paragraph is less than £75,000;

(b) a charity.

(4) Where any persons whose emoluments are taken into account for the purposes of this article were employed at or from an establishment that ceases to carry on business in the twenty-first levy period, the sum of the emoluments of those persons shall be reduced for such purposes in the same proportion 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.

(5) For the purposes of this article, no regard shall be had to the emoluments of any person wholly engaged:—

(a) in agriculture; or

(b) in the supply of food or drink for immediate consumption.

Assessment notices

4.—(1) The Board shall serve an assessment notice on every employer assessed to the levy.

(2) The amount of an assessment 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, or 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 the assessment payable under 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 industrial tribunal may have allowed for appealing under paragraph (2) or (3) of that article, 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 on the employer.

Appeals

7.—(1) A person assessed to the levy may appeal to an industrial 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 industrial 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 industrial 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 industrial 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 assessment that has reference to an establishment that ceases to carry on business in the twenty-first levy period on any day after the date of the service of the 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 industrial tribunal under this article shall be made in accordance with the Industrial Tribunals (England and Wales) Regulations 1965**(a)** except where the assessment has reference to persons employed at or from one or more establishments that are wholly in Scotland and to no other persons, in which case the appeal or application shall be made in accordance with the Industrial Tribunals (Scotland) Regulations 1965**(b)**.

(6) The powers of an industrial 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 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

Patrick Nicholls
Parliamentary Under Secretary of State
Department of Employment

14th March 1990

(a) S.I. 1965/1101, amended by S.I. 1967/301, 1977/1473.
(b) S.I. 1965/1157, amended by S.I. 1967/302, 1977/1474.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 23rd April 1990, gives effect to proposals submitted by the Clothing and Allied Products Industry Training Board to the Secretary of State. The proposals are for the imposition of a levy on employers in the Clothing and Allied Products industry for the purpose of raising money towards meeting the expenses of the Board.

The levy is to be imposed in respect of the twenty-first levy period commencing with the day upon which this Order comes into force and ending on 31st March 1991. The levy will be assessed by the Board and there will be a right of appeal against an assessment to an industrial tribunal.