STATUTORY INSTRUMENTS

1978 No. 1021

INDUSTRIAL TRAINING

The Industrial Training Levy (Cotton and Allied Textiles) Order 1978

Made - - - -	*24th July* 1978
Laid before Parliament	*2nd August* 1978
Coming into Operation	*6th September* 1978

Whereas proposals made by the Cotton and Allied Textiles Industry Training Board for the raising and collection of a levy have been submitted to, and approved by, the Manpower Services Commission under section 7 of the Industrial Training Act 1964**(a)** ("the 1964 Act"), as amended by section 6 of and Schedule 2 to the Employment and Training Act 1973**(b)** ("the 1973 Act") and have thereafter been submitted by the said Commission to the Secretary of State under section 7(1C) of the 1964 Act as inserted by the 1973 Act;

And whereas in pursuance of section 7(1A)(*a*) of the 1964 Act as inserted by the 1973 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 cotton and allied textiles industry, does not exceed an amount which the Secretary of State estimates is equal to one per cent. of 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 twelfth base period";

And whereas the Secretary of State is satisfied that proposals published by the said Board in pursuance of section 4A of the 1964 Act, as inserted by the 1973 Act, provide for exemption certificates relating to the levy in such cases as he considers appropriate;

Now, therefore, the Secretary of State in exercise of the powers conferred by section 4 of the 1964 Act, as amended by section 6 of and Schedule 2 to the 1973 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 (Cotton and Allied Textiles) Order 1978 and shall come into operation on 6th September 1978.

(a) 1964 c. 16. **(b)** 1973 c. 50.

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**(a)** or, in relation to Scotland, as in section 86(3) of the Agriculture (Scotland) Act 1948**(b)**;

(*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 Board" means the Cotton and Allied Textiles Industry Training Board;

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

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

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

(*h*) "the cotton and allied textiles industry" does not include any activities of an establishment 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 cotton and allied textiles 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;

(*i*) "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;

(*j*) "employer" means a person who is an employer in the cotton and allied textiles industry at any time in the twelfth levy period;

(*k*) "exemption certificate" means a certificate issued by the Board under section 4B of the 1964 Act, as inserted by the 1973 Act;

(*l*) "the industrial training order" means the Industrial Training (Cotton and Allied Textiles Board) Order 1966**(d)**;

(*m*) "the levy" means the levy imposed by the Board in respect of the twelfth levy period;

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

(a) 1947 c. 48.
(b) 1948 c. 45.
(c) 1970 c. 10.
(d) S.I. 1966/823.

(*o*) "the eleventh base period" and "the twelfth base period" respectively mean the period of twelve months that commenced on the 6th April 1976 and the period of twelve months that commenced on 6th April 1977;

(*p*) "the transfer orders" means—

(i) the Industrial Training (Transfer of the Activities of Establishments) Order 1974**(a)**, and

(ii) the Industrial Training (Transfer of the Activities of Establishments) Order 1975**(b)**, and

(iii) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1976**(c)**, and

(iv) The Industrial Training (Transfer of the Activities of Establishments) (No. 3) Order 1976**(d)**, and

(v) The Industrial Training (Transfer of the Activities of Establishments) Order 1977**(e)**, and

(vi) The Industrial Training (Transfers of the Activities of Establishments) Order 1978**(f)**;

(*q*) "the twelfth levy period" means the period commencing with the day upon which this Order comes into operation and ending on 31st March 1979.

(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) Any reference in this Order to a person employed at or from a cotton and allied textiles 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 is called) who is required to devote substantially the whole of his time to the service of the company.

(4) The Interpretation Act 1889**(g)** 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 twelfth levy period shall be assessed in accordance with the provisions of this Article.

(2) The levy shall be assessed separately in respect of each relevant establishment of an employer (that is to say each cotton and allied textiles establishment other than one in respect of which an exemption certificate has been issued to the employer, or one which is an establishment of an employer who is exempt from the levy by virtue of paragraph (7) of this Article) but in agreement with

(a) S.I. 1974/1154.
(b) S.I. 1975/434.
(c) S.I. 1976/1635.
(d) S.I. 1976/2110.
(e) S.I. 1977/1951.
(f) S.I. 1978/448.
(g) 1889 c. 63.

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 a cotton and allied textiles establishment of an employer shall be an amount equal to 0·75 per cent. of the appropriate sum (calculated in accordance with the Schedule to this Order).

(4) In the case of one establishment only of an employer, the appropriate sum shall be treated for the purposes of the assessment of the levy in respect of that establishment as if that sum were reduced by £45,000.

(5) For the purposes of the application of the provisions of the last foregoing paragraph the Board shall, if necessary—

(*a*) select the establishment in relation to which the provisions of the said paragraph are to apply; or

(*b*) aggregate the appropriate sums in respect of any two or more cotton and allied textiles establishments of the employer, in which case the said establishments shall be deemed for the purposes of the assessment to constitute one establishment.

(6) The amount of the levy imposed in respect of a cotton and allied textiles establishment that ceases to carry on business in the twelfth levy period shall be in the same proportion to the amount that would otherwise be due under the foregoing 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 five times the number of days in the said levy period.

(7) There shall be exempt from the levy—

(*a*) an employer in whose case the appropriate sum, or where there is more than one cotton and allied textiles establishment of the employer, the aggregate of the appropriate sums, is less than £46,334;

(*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) An assessment notice shall state the amount of the levy payable by the person assessed to the levy, and that amount shall be equal to the total amount (rounded down where necessary to the nearest £1) of the levy assessed by the Board under Article 3 of this Order in respect of each establishment included in the notice.

(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 the levy 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 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, and such withdrawal may be extended by the Board to any other assessment appearing in the assessment notice.

(2) The withdrawal of an assessment shall be without prejudice—

(*a*) to the power of the Board to serve a further assessment notice in respect of any establishment to which that assessment related;

(*b*) to any other assessment included in the original assessment notice and not withdrawn by the Board, and such notice shall thereupon have effect as if any assessment withdrawn by the Board had not been included therein.

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 twelfth 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 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.

24th July 1978.

John Golding,
Joint Parliamentary Under Secretary of State,
Department of Employment.

Article 3

SCHEDULE

1. The provisions of this Schedule shall have effect for the purpose of calculating the appropriate sum under Article 3 of this Order.

2. For the purposes of this Schedule—
   (*a*) references to an establishment are references to a cotton and allied textiles establishment;
   (*b*) subject to sub-paragraph (*c*), references to the sum of the emoluments are references to the sum of the emoluments of the persons employed by the employer at or from the establishment;
   (*c*) no regard shall be had to the emoluments of any person wholly engaged in agriculture or in the supply of food or drink for immediate consumption;
   (*d*) "A" is the sum of the emoluments in the twelfth base period;
   (*e*) "B" is the sum of the emoluments in the eleventh base period.

3. Where $\frac{A}{B}$ is equal to or less than $\frac{3}{4}$ the appropriate sum shall be $\frac{A}{B}$ multiplied by A.

4. In any other case the appropriate sum shall be A.

(a) S.I. 1965/1101.
(b) S.I. 1967/301.
(c) S.I. 1965/1157.
(d) S.I. 1967/302.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order gives effect to proposals of the Cotton and Allied Textiles Industry Training Board which were submitted to and approved by the Manpower Services Commission, and thereafter submitted by the Manpower Services Commission to the Secretary of State. The proposals are for the imposition of a levy upon employers in the cotton and allied textiles industry for the purpose of encouraging adequate training in the industry.

The levy is to be imposed in respect of the twelfth levy period commencing on the day upon which this Order comes into operation and ending on 31st March 1979. The levy will be assessed by the Board and there will be a right of appeal against an assessment to an industrial tribunal.

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