STATUTORY INSTRUMENTS

1978 No. 1305

INDUSTRIAL TRAINING

The Industrial Training Levy (Wool, Jute and Flax) Order 1978

Made - - -	*4th September* 1978
Laid before Parliament	*13th September* 1978
Coming into Operation	*16th October* 1978

Whereas proposals made by the Wool, Jute and Flax 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 wool, jute and flax 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 fourteenth base period";

And whereas the Secretary of State is satisfied that such of the proposals as were 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 (other than levy payable by virtue of section 7(1B) of the 1964 Act as inserted by the 1973 Act) in such cases as he considers appropriate;

And whereas the Secretary of State is satisfied that such of the proposals as were made in pursuance of section 7(1B) of the 1964 Act, as inserted by the 1973 Act, are necessary as mentioned in paragraph (*a*) of that subsection and are shown, by evidence furnished by the Board, to be considered necessary as mentioned in paragraph (*b*) of that subsection;

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

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 (Wool, Jute and Flax) Order 1978 and shall come into operation on 16th October 1978.

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 Wool, Jute and Flax 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*) "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;

(*h*) "employer" means a person who is an employer in the wool, jute and flax industry at any time in the fourteenth levy period;

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

(*j*) "the fourteenth base period" means the period commencing on 1st April 1977 and ending on 31st March 1978;

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

(*l*) "the industrial training order" means the Industrial Training (Wool Industry Board) Order 1964(**d**), as amended by the Industrial Training (Wool, Jute and Flax Board) Order 1968(**e**);

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

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

(*o*) "wool, jute and flax establishment" means an establishment in Great Britain engaged in the fourteenth base period wholly or mainly in the wool, jute and flax industry for a total of twenty-seven or more weeks or, being an establishment that commenced to carry on business in the fourteenth 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;

(**a**) 1947 c. 48.
(**b**) 1948 c. 45.
(**c**) 1970 c. 10.
(**d**) S.I. 1964/907.
(**e**) S.I. 1968/898.

(*p*) "the wool, jute and flax industry" does not include any activities of an establishment which has been transferred from the industry of the Board to the industry of another industrial training board by the Industrial Training (Transfer of the Activities of Establishments) Order 1974(**a**) ("the Transfer Order") but save as aforesaid means any one or more of the activities which, subject to the provisions of paragraph 2 of the Schedule to the industrial training order, are specified in paragraph 1 of that Schedule as the activities of the wool, jute and flax industry, or in relation to an establishment whose activities have been transferred to the industry of the Board by the Transfer Order, any activities so transferred.

(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) The levy to be imposed by the Board on employers in respect of the fourteenth levy period shall be assessed in accordance with the provisions of this Article, Article 4 and the Schedule and Appendix to this Order.

(2) The levy shall be assessed by the Board separately in respect of each relevant establishment of an employer (that is to say each wool, jute and flax establishment other than any establishment as respects which the employer is wholly exempted from levy by an exemption certificate, or which is an establishment of an employer who is exempted by virtue of paragraph 3 of the Schedule), but in agreement with the employer one assessment may be made in respect of any number of relevant establishments, in which case those establishments shall be deemed for the purposes of that assessment to constitute one establishment.

Operation of exemption certificates in the case of certain jute establishments

4.—(1) This Article applies to any wool, jute and flax establishment engaged in activities falling under any of the heads (a), (b) or (c) in Group 1 of the Appendix to this Order being an establishment in respect of which an exemption certificate has been issued.

(2) An exemption certificate shall not operate to exempt an establishment to which this Article applies from a portion of the levy equal to 2/52nds of the levy which would be payable if that certificate had not been issued, and accordingly in the case of such an establishment the Appendix shall have effect as if for the figures 0·52% there were substituted the figures 0·02%.

Assessment notices

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

(**a**) S.I. 1974/1154. (**b**) 1889 c. 63.

(2) An assessment notice shall state the amount (rounded down, where necessary, to the nearest £1) of the levy payable by the person assessed thereto, and where the notice comprises two or more assessments the said amount shall, before any such rounding down, be equal to the total amount of the levy assessed by the Board under 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

6.—(1) Subject to the provisions of this Article and of Articles 7 and 8, 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 8(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

7.—(1) The Board may, by 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 8 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—

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

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

Appeals

8.—(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 fourteenth 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

9.—(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.

4th September 1978.

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

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

Article 3

SCHEDULE

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

(*a*) "the appropriate percentage" means, in relation to the emoluments of persons employed at or from a wool, jute or flax establishment that was engaged wholly or mainly in any one or more of the activities comprised in one of the groups of activities specified in the first and second columns of the Appendix to this Schedule, the percentage specified in relation to that group in the third column of that Appendix;

(*b*) "arranging for the carrying out on commission" in relation to any activities mentioned in the Appendix to this Schedule means arranging for the carrying out by another person in pursuance of a contract of work or labour (with or without the provision of materials) of those activities wholly or mainly upon or from materials owned in the course of this business by the person for whom such activities are to be carried out;

(*c*) "production" in relation to any yarn includes any of the processes mentioned in sub-paragraphs (*d*), (*e*), (*f*) and (*g*) of paragraph 1 of the Schedule to the industrial training order;

(*d*) "related or administrative activities" means activities of a kind to which paragraph 1(*r*) of the Schedule to the industrial training order applies;

(*e*) other expressions have the meanings assigned to them respectively by paragraph 3 or 4 of the Schedule to the industrial training order or by Article 2 of this Order.

(2) The activities in any Group specified in the first and second columns of the Appendix to this Schedule include the activities of arranging either directly or through another person for the carrying out on commission of any activities comprised in that Group, and include also any related or administrative activities undertaken in relation to any activities comprised in such Group.

(3) In reckoning any sum of emoluments for the purposes of this Schedule 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.

2. Subject to the provisions of this Schedule, the amount of levy to be imposed on an employer in respect of a wool, jute and flax establishment shall be equal to the appropriate percentage of the sum of the emoluments of all the persons employed by the employer in the fourteenth base period at or from the establishment.

3. There shall be exempt from the levy:—

(*a*) an employer in whose case the number of employees employed by him (or by an associated company of the employer) under a contract of service at or from the wool, jute and flax establishment or establishments of the employer (or of any associated company of the employer), on 31st March 1978 did not exceed 25;

(*b*) a charity.

4. The amount of the levy imposed in respect of a wool, jute and flax establishment that ceases to carry on business in the fourteenth levy period shall be in the same proportion to the amount that would otherwise be due in accordance with the foregoing provisions of this Schedule 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.

APPENDIX

Group No.	Description of Activities	Appropriate Percentage
1.	The activities following or any of them:— (*a*) the production of yarn from jute; (*b*) the manufacture of any woven fabric from such yarn, or (*c*) the production of any other yarn or the manufacture of any other woven fabric, being production or manufacture in a textile factory from any textile fibres, yarn or continuous filament and, in any case, by a system commonly employed in the production of jute yarn or in the manufacture of jute fabric or by a system similar thereto.	0·52%
2.	Any other activities of the wool, jute and flax industry not being activities comprised in Group 1 of this Appendix.	0·50%

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order gives effect to proposals of the Wool, Jute and Flax 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 for Employment. The proposals are for the imposition of a further levy on employers in the wool, jute and flax industry for the purpose of encouraging adequate training in the industry.

The levy is to be imposed in respect of the fourteenth levy period commencing with 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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