1965 No. 1157

INDUSTRIAL TRAINING

The Industrial Tribunals (Scotland) Regulations 1965

Made - - - -	18*th May* 1965
Laid before Parliament -	26*th May* 1965
Coming into Operation -	31*st May* 1965

The Minister of Labour in exercise of the powers conferred on him by section 12 of the Industrial Training Act 1964(a) and after consultation with the Council on Tribunals hereby makes the following Regulations:—

Title and commencement

1. These Regulations may be cited as the Industrial Tribunals (Scotland) Regulations 1965 and shall come into operation on 31st May 1965.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires:—

" the Act " means the Industrial Training Act 1964 ;

" appellant " means a person who has appealed to a tribunal under the provisions of a levy order made under section 4 of the Act ;

" the Board " means in relation to an appeal the respondent industrial training board ;

" the clerk to the tribunal " means the person appointed by the Secretary of the Tribunals to act in that capacity at one or more hearings ;

" hearing " means a sitting of a tribunal duly constituted for the purpose of receiving evidence, hearing addresses and witnesses or doing anything lawfully requisite to enable the tribunal to reach a decision on an appeal ;

" levy " means a levy imposed under the Act ;

" the Lord President " means the Lord President of the Court of Session ;

" the Minister " means the Minister of Labour ;

" the Office of the Tribunals " means the Central Office of the Industrial Tribunals (Scotland) ;

" the President " means the President of the Industrial Tribunals (Scotland) or the person nominated by the Lord President to discharge for the time being the functions of the President ;

" the Register of Appeals " means the Register of Industrial Levy Appeals and Decisions kept in pursuance of these Regulations ;

(a) 1964 c. 16.

" Rule " means a Rule of Procedure contained in the Schedule to these Regulations;

" the Secretary of the Tribunals " means the Secretary of the Central Office of the Industrial Tribunals (Scotland) for the time being;

" tribunal " means an industrial tribunal (Scotland) established under these Regulations, and in relation to an appeal means the tribunal to which the appeal has been referred by the President.

(2) A form referred to by number means the form so numbered in the Appendix to the Schedule to these Regulations.

(3) The Interpretation Act 1889(a) applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

President of Industrial Tribunals

3.—(1) There shall be a President of the Industrial Tribunals (Scotland) who shall be appointed by the Lord President and shall be an advocate or solicitor of not less than seven years' standing.

(2) The President shall hold office for five years and shall be eligible for reappointment.

(3) The President may resign his office by notice in writing to the Lord President.

(4) If the Lord President is satisfied that the President is incapacitated by infirmity of mind or body from discharging the duties of his office, or if the President has had his estate sequestrated or has made a trust deed for behoof of his creditors or a composition contract, the Lord President may revoke his appointment.

(5) The functions of the President under these Regulations may, if he is for any reason unable to act or during a vacancy in his office, be discharged by a person nominated for that purpose by the Lord President.

Establishment of Tribunals

4. Such number of tribunals shall be established in Scotland for the determination of appeals by persons assessed to a levy as the President may from time to time determine, and they shall sit at such times and in such places as he may from time to time determine.

Membership of Tribunals

5.—(1) A tribunal shall consist of a chairman and two other members but, in the absence of any one member of a tribunal other than the chairman, an appeal may with the consent of the appellant and of the Board be heard in the absence of such member, and in that event the tribunal shall be deemed to be properly constituted.

(2) For each hearing the chairman shall be the President or a person selected by the President from a panel of persons, being advocates or solicitors of not less than seven years' standing, appointed by the Lord President.

(3) For each hearing the two members of a tribunal other than the chairman shall be selected by the President, as to one member from a panel of persons appointed by the Minister after consultation with any organisation or association of organisations representative of employers, and as to the other member from a panel of persons appointed by the Minister after consultation with any organisation or association of organisations representative of employed persons.

(a) 52 & 53 Vict. c. 63.

(4) The President may at any time select from the appropriate panel another person in substitution for the chairman or other member of a tribunal previously selected by him to hear an appeal.

(5) Members of panels constituted under these Regulations shall hold and vacate office under the terms of the instruments under which they are appointed, but may resign office by notice in writing in the case of a member of the panel of chairmen to the Lord President and in any other case to the Minister; and any such member who ceases to hold office shall be eligible for reappointment.

Procedure of Tribunals

6. The Rules of Procedure contained in the Schedule to these Regulations shall have effect in relation to tribunals.

Dated 18th May 1965.

R. J. Gunter,

Minister of Labour.

SCHEDULE

RULES OF PROCEDURE

Notice of appeal

1. An appeal against an assessment to a levy shall be instituted by the appellant sending to the Secretary of the Tribunals in duplicate a written notice of appeal which shall be substantially in accordance with Form 1, and shall set out the grounds of the appeal.

Entering of appeal

2.—(1) Upon receiving a notice of appeal the Secretary of the Tribunals shall enter particulars of the appeal in the Register of Appeals, and shall forthwith send the duplicate notice to the Board, and shall inform the appellant and the Board in writing of the number of the appeal entered in the Register, which shall thereafter constitute the title of the appeal.

(2) Upon receiving the duplicate notice of appeal, the Board shall forthwith send to the Secretary of the Tribunals a copy of the assessment referred to therein.

Power to require further particulars

3.—(1) If the Board requires further particulars of the grounds on which the appellant intends to rely and of any facts and contentions relevant thereto, the Board may within 14 days of receiving the duplicate notice of appeal send to the appellant a notice specifying the particulars required by the Board and within the same time shall send a duplicate copy thereof to the Secretary of the Tribunals.

(2) The appellant shall within 14 days of the receipt of the notice send the further particulars to the Board and within the same time send a duplicate copy thereof to the Secretary of the Tribunals.

Power to require particulars of the assessment

4. The tribunal may at any time request the Board to furnish any particulars of the assessment which appear to be requisite for the decision of the appeal, and thereupon the Board shall send the particulars to the Secretary of the Tribunals and to the appellant.

Time and Place of hearing

5. The President shall fix the date, time and place of the hearing of an appeal and the Secretary of the Tribunals shall not less than 14 days before the date so fixed send to the appellant and to the Board a notice substantially in accordance with Form 2.

The hearing

6.—(1) The hearing of an appeal shall take place in private, unless the tribunal determines at the request of the appellant to hear the appeal in public, but a member of the Council on Tribunals or of its Scottish Committee shall be entitled to attend the hearing of any appeal in his capacity as such member.

(2) If the appellant or the Board shall desire to submit representations in writing relating to an appeal for consideration by the tribunal at the hearing of such appeal the appellant or the Board, as the case may be, shall send such representations to the Secretary of the Tribunals not less than 7 days before the hearing and shall at the same time send a copy thereof to the other party.

Representation

7.—(1) The appellant may appear at the hearing of his appeal, and may be heard in person or be represented by counsel or solicitor or with leave of the tribunal by any other person.

(2) The Board may appear at the hearing of an appeal, and may be represented by any member or officer thereof or by counsel or solicitor.

Procedure at hearing

8.—(1) The appellant and the Board shall be entitled to make opening statements, to call witnesses, to cross-examine any witnesses called by the other party and to address the tribunal.

(2) The appellant may if he so desires give evidence on his own behalf.

(3) If the appellant or the Board or both of them shall fail to appear or to be represented at the time and place fixed for the hearing of an appeal, the tribunal may dispose of the appeal in the absence of such party or parties or may adjourn the hearing to a later date : Provided that before disposing of an appeal in the absence of either or both parties the tribunal shall consider any representations submitted by such party or parties under Rule 6 (2).

(4) The tribunal may require any witnesses to give evidence on oath or affirmation, and for that purpose the chairman may administer an oath or affirmation in due form.

Decision of tribunal

9.—(1) The decision of the tribunal may be taken by a majority thereof and, if in accordance with Regulation 5 (1) the tribunal shall be constituted of two members only, the chairman shall have a second or casting vote.

(2) The decision of the tribunal shall be recorded in a document signed by the chairman which shall contain the reasons for the decision.

(3) The clerk to the tribunal shall transmit the document signed by the chairman to the Secretary of the Tribunals who shall as soon as may be enter it in the Register of Appeals, and shall send a copy of the entry to the appellant and the Board.

(4) The Register of Appeals shall be kept at the Office of the Tribunals and shall be open to the inspection of any person without charge at all reasonable hours.

(5) The chairman of the tribunal shall have power by certificate under his hand to correct any clerical mistake or error in a decision of the tribunal arising from any accidental slip or omission.

(6) A copy of any decision so corrected shall be sent by the clerk to the tribunal with the certificate of the chairman to the Secretary of the Tribunals who shall thereupon enter the correction in the Register of Appeals and shall send a copy of the corrected entry to the appellant and the Board.

Miscellaneous powers of tribunal

10.—(1) The tribunal may if it thinks fit :—

(*a*) extend the time appointed by these Rules for doing any act notwithstanding that the time appointed may have expired ;

(*b*) postpone the day or time fixed for, or adjourn the hearing of, any appeal ;

(*c*) at the request of the appellant or the Board by notice summon any person to appear before the tribunal to be examined ;

(*d*) if the appellant shall at any time give notice of the abandonment of his appeal, dismiss the appeal ;

(*e*) if the appellant and the Board agree in writing upon the terms of a decision to be made by the tribunal, decide accordingly.

(2) Subject to the provisions of these Rules the tribunal may regulate its own procedure.

(3) Any act, other than the consideration of an appeal, required or authorised by these Rules to be done by the tribunal may be done by, or on the direction of, the President or the chairman of the tribunal.

Applications

11.—(1) An application to the tribunal for an extension of the time appointed by these Rules for doing any act may be made by the appellant or the Board either before or after the expiration of the time so appointed.

(2) The appellant or the Board may at any time apply to the tribunal for directions on any matter arising in connection with an appeal.

(3) An application under the foregoing provisions of this Rule or for an extension of the time for appealing against an assessment to a levy shall be made by sending to the Secretary of the Tribunals in duplicate a notice of application which shall state the title of the appeal, or the number of the assessment if an appeal has not been instituted, and shall set out the grounds of the application.

Notices, etc.

12.—(1) Any notice required by these Rules shall be in writing, and all notices and documents required or authorised by these Rules to be sent or given to any person may be sent by the recorded delivery service or delivered—

(*a*) in the case of a document directed to the Secretary of the Tribunals, to the Office of the Tribunals ;

(*b*) in the case of a document directed to a Board, to the office of the Board ;

(*c*) in the case of a document directed to the appellant, to his address for service specified in any notice given under these Rules, or to his last known address or place of business in the United Kingdom or, if the appellant is a company, to the company's registered office;

and if sent or given to the authorised representative of the appellant or the Board shall be deemed to have been sent or given to him or the Board as the case may be.

(2) The appellant may at any time by notice to the Secretary of the Tribunals and to the Board change his address for service under these Rules.

APPENDIX

Form 1

Industrial Training Act 1964

Notice of Appeal against an Assessment

To
The Secretary of the Central Office
of the Industrial Tribunals (Scotland),

.....

.....

I/We* ..... of .....

hereby give notice that I/we* appeal under the Industrial Training Act 1964 section 4 and 12, against the assessment to the levy made by the..... ..... Industry Training Board on .... 19..... being the assessment numbered .....

Grounds of Appeal

The grounds of my/our* appeal are as follows:—

Address for Service

All communications regarding the appeal should be addressed to me/us* at ** .....

to my/our* Solicitor(s)/Agent(s)* Mr./Messrs.* .... at** .....

Dated ..... 19.....

Signed .....

Appellant

* Delete if inapplicable
** Insert address as applicable

Form 2

Industrial Training Act 1964

Notice of Hearing

Case No. .....

Tribunal .....

Central Office of the Industrial Tribunals (Scotland)

.....

.....

NOTICE IS HEREBY GIVEN that the appeal of .....

.....against the assessment to the levy made by the

..... Industry Training Board and numbered.....

will be heard by an Industrial Tribunal at .....

..... on the ..... day of ..... 19.....

at ..... o'clock in the .....noon.

In his own interest the appellant should appear at the hearing with his witnesses at the above time and place.

The appellant is entitled to be represented by counsel or solicitor or with leave of the tribunal by any other person.

If for any reason the appellant does not propose, or is unable, to appear at the hearing either in person or by representative, the appellant should *immediately* inform me in writing at the address mentioned at the head of this notice, stating the case number of the appeal and the reasons for the inability to attend or to be represented.

Dated ..... 19.....

Signed .....

Secretary

To the Appellant .....

and

To ..... Industry Training Board

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations which are made under section 12 of the Industrial Training Act 1964 provide for the establishment of tribunals to determine appeals in Scotland by persons assessed to a levy imposed by an industrial training board under a levy order. Levy orders are made under section 4 of the Act and must give persons assessed to the levy a right of appeal to an appeal tribunal constituted under the Act. The tribunals will be known as the Industrial Tribunals (Scotland).

The Schedule to the Regulations contains the Rules of Procedure in relation to the entering and hearing of an appeal and makes provision for a Register of Industrial Levy Appeals and Decisions. The Appendix to the Schedule prescribes the form of the notice of appeal against an assessment and of the notice of a hearing.