



# Employment Act 1989

## 1989 CHAPTER 38

### *Industrial training boards*

#### **23 Consultation in connection with industrial training orders.**

In section 1 of the Industrial Training Act 1982 (establishment of industrial training boards), the following subsection shall be substituted for subsections (4) and (5)—

- “(4) Before making an industrial training order the Secretary of State shall consult—
- (a) such organisations or associations of organisations appearing to him to be representative of substantial numbers of employers, and such bodies established for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, as he thinks fit; and
  - (b) such other organisations, associations or bodies (if any) as he thinks fit.”

#### **24 Transfer of assets or staff of industrial training boards.**

- (1) The following sections shall be inserted after section 3 of the <sup>M1</sup>Industrial Training Act 1982—

##### **“3A Transfer of assets on revocation or amendment of industrial training order.**

- (1) Where an order has been made under section 1 above which—
- (a) revokes an industrial training order, or
  - (b) amends such an order so as to exclude from the scope of operation of an industrial training board some of the activities in relation to which it exercises functions,
- the board concerned—
- (i) may with the consent of the Secretary of State, or
  - (ii) shall if he so directs,

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transfer all or any of its assets to any person on trust to be used for charitable purposes which are related to or connected with training for employment.

- (2) A transfer under subsection (1) above may be made for a consideration which is less than the market value of the assets transferred or for no consideration; and different assets may be transferred by a board under that subsection to different persons.
- (3) It is hereby declared that a transfer under subsection (1) above may be made in a case where an industrial training order is revoked even if the assets of the board concerned are (or will be after the transfer) insufficient to meet its liabilities and the expenses of the winding up of the board in pursuance of section 4(1) below.
- (4) Subject to subsection (5) below, the provisions of section 15(5) to (9) below shall apply in relation to any direction given by the Secretary of State under subsection (1) above as they apply in relation to any direction given by him under section 15(1) or (2) below.
- (5) Where any such direction is given in a case where an industrial training order is revoked, those provisions shall so apply with the omission from section 15(6) below of the words from “during such period” onwards.

### **3B Transfer of staff employed by boards.**

- (1) If arrangements are made (whether in connection with a transfer of assets under section 3A(1) above or otherwise) for any activities of an industrial training board to be carried on by some other person (“the transferee”) as from a particular date, this section shall have effect in relation to any employee of the board who, immediately before that date, was employed wholly or mainly in connection with those activities.
  - (2) The Transfer of Undertakings (Protection of Employment) Regulations 1981 shall apply in relation to any such employee of the board in accordance with subsection (3) below.
  - (3) For the purposes of the application of those Regulations in relation to any such employee, the activities referred to in subsection (1) above shall (whether or not they would otherwise be so regarded) be regarded—
    - (a) as constituting an undertaking within the meaning of those Regulations which is transferred from the board to the transferee on the date referred to in that subsection, and
    - (b) as being so transferred by a transfer to which those Regulations apply and which is completed on that date.
  - (4) A certificate issued by an industrial training board, in connection with any such arrangements as are referred to in subsection (1) above, to the effect that a person was, immediately before the date referred to in that subsection, employed by the board wholly or mainly in connection with the activities to which the arrangements relate shall be conclusive evidence of the facts stated in the certificate.”
- (2) In section 4(2) of the <sup>M2</sup>Industrial Training Act 1982 (winding up of industrial training boards), the following provisions shall be substituted for paragraph (b)—

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- “(b) for any assets of the board which are not required to meet those liabilities and expenses to be transferred to the Secretary of State and for those assets to be applied for purposes specified in the order.

Any reference in this subsection to the assets of the board is a reference to the assets (if any) held by it after the making of any transfer or transfers under section 3A(1) above.”

**Marginal Citations**

**M1** 1982 c. 10.

**M2** 1982 c. 10.

**25 Constitution of industrial training boards.**

- (1) In Schedule 1 to the Industrial Training Act 1982 (constitution etc. of industrial training boards), the following paragraph shall be substituted for paragraph 3—

- “3 (1) An industrial training board shall consist of—
- (a) a chairman and, if the Secretary of State thinks fit, a deputy chairman, each of whom shall be a person appearing to the Secretary of State to have industrial or commercial experience;
  - (b) such number of persons appointed after the appropriate consultation as the Secretary of State thinks fit; and
  - (c) such other persons (if any) whom it appears to the Secretary of State to be appropriate to appoint in addition to those appointed by virtue of paragraph (b) above.
- (2) A person appointed by virtue of sub-paragraph (1)(b) above shall at the time of his appointment be a person appearing to the Secretary of State to be concerned (whether as a director, manager or sole proprietor or otherwise) in the management of the activities, or any of the activities, of an employer engaging in the industry; and the reference in that provision to the appropriate consultation is a reference to consultation with such organisations, or associations of organisations, representative of employers engaging in the industry as appear to the Secretary of State to be appropriate.
- (3) The Secretary of State shall not make any appointment by virtue of sub-paragraph (1)(c) above if to do so would result in the number of persons for the time being appointed by virtue of that provision being equal to, or greater than, the number of persons for the time being appointed by virtue of sub-paragraph (1)(b) above.
- (4) References in the following provisions of this Schedule to a chairman include a deputy chairman.”
- (2) Subject to subsection (4) below, the Secretary of State may reconstitute the membership of an industrial training board as from any time after the passing of this Act—

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- (a) by terminating such of the appointments of its existing members as would otherwise expire after that time, and
  - (b) by making fresh appointments to it, as from that time, in accordance with the provisions substituted by subsection (1) above.
- (3) The termination of a person's appointment to an industrial training board in accordance with paragraph (a) of subsection (2) above shall not preclude him from being re-appointed to the board in pursuance of paragraph (b) of that subsection.
- (4) The power conferred on the Secretary of State by subsection (2) above shall not be exercisable in relation to an industrial training board if all of its members were appointed to it in accordance with the provisions substituted by subsection (1) above (whether they were so appointed in pursuance of subsection (2)(b) above or otherwise).

**Changes to legislation:**

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