

1967 No. 301

INDUSTRIAL TRAINING

**The Industrial Tribunals (England and Wales) (Amendment)
Regulations 1967**

<i>Made</i> - - -	1st March 1967
<i>Laid before Parliament</i>	10th March 1967
<i>Coming into Operation</i>	13th March 1967

The Minister of Labour in exercise of the powers conferred on him by section 12 of the Industrial Training Act 1964(a) and by section 46 of the Redundancy Payments Act 1965(b) and after consultation with the Council on Tribunals hereby makes the following Regulations amending the Industrial Tribunals (England and Wales) Regulations 1965(c) (hereinafter referred to as "the principal Regulations"):

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Industrial Tribunals (England and Wales) (Amendment) Regulations 1967 and shall come into operation on 13th March 1967.

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

Amendment of principal Regulations

2.—(1) In Regulation 2(1) of the principal Regulations:—

- (a) in the definition of "the clerk to the tribunal" for the words "the Secretary of the Tribunals" there shall be substituted the words "the Secretary, or an Assistant Secretary, of the Tribunals";
- (b) there shall be inserted immediately after the definition of "the Office of the Tribunals" the following definition—
" 'the panel of chairmen' means the panel of persons, being barristers or solicitors of not less than seven years' standing, appointed by the Lord Chancellor in pursuance of Regulation 5(2) of these Regulations; "
- (c) in the definition of "Rule" for the words "the Schedule" there shall be substituted the words "either Schedule";
- (d) for the definition of "the Secretary of the Tribunals" there shall be substituted the following definition—
" 'the Secretary of the Tribunals' and 'an Assistant Secretary of the Tribunals' mean respectively the persons for the time being acting as the Secretary or as an Assistant Secretary, of the Central Office of the Industrial Tribunals (England and Wales); "
- (e) at the end of the definition of "tribunal" there shall be added the words "or by a member of the panel of chairmen for the time being nominated by the President."

(a) 1964 c. 16.

(c) S.I. 1965/1101 (1965 II, p. 2805).

(b) 1965 c. 62.

(d) 1889 c. 63.

(2) For Regulation 2(2) of the principal Regulations there shall be substituted the following paragraph—

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

3. For Regulation 4 of the principal Regulations there shall be substituted the following Regulation:—

“ *Establishment of Tribunals*

4.—(1) Such number of tribunals shall be established in England and Wales for the determination of appeals by persons assessed to a levy as the President may from time to time determine.

(2) The tribunals shall sit at such times and in such places as may from time to time be determined by the President or, in relation to any area specified by him in England and Wales, by a member of the panel of chairmen nominated by him to act in that area.”

4.—(1) In Regulation 5 of the principal Regulations there shall be substituted the following paragraphs for paragraph (1):—

“(1) Subject to the provisions of paragraph (1A) of this Regulation, 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 parties be heard in the absence of such member, and in that event the tribunal shall be deemed to be properly constituted.

(1A) A tribunal may consist of the President, the chairman of the tribunal or a member of the panel of chairmen for the time being nominated for the purpose by the President, for any of the following purposes, that is to say—

- (a) making an order dismissing the proceedings where the appellant or applicant has given written notice of the abandonment of his appeal or application;
- (b) making an order allowing the appeal where the Board has given written notice that the appeal is not contested;
- (c) deciding an appeal or application in accordance with the written agreement of the parties;
- (d) dealing with any interlocutory matter or application;
- (e) making an order for costs in connection with an order or decision mentioned in the foregoing sub-paragraphs of this paragraph.”

(2) For paragraph (2) of the said Regulation 5 there shall be substituted the following paragraph:—

“(2) For each hearing the chairman shall be the President or a person selected from a panel of persons (being barristers or solicitors of not less than seven years' standing) appointed by the Lord Chancellor; such selection shall be made by the President or by a member of the said panel for the time being nominated by the President for the purpose, and that member may select himself.”

(3) In paragraph (3) of the said Regulation 5 immediately after the word “President” there shall be inserted the words “(or by a member of the panel of chairmen for the time being nominated by the President for the purpose)”.

(4) In paragraph (4) of the said Regulation 5 immediately after the word "President" there shall be inserted the words "(or a member of the panel of chairmen for the time being nominated by the President for the purpose)" and the words "by him" shall be omitted.

5. For Regulation 6 of the principal Regulations there shall be substituted the following Regulation:—

" Procedure as to levy appeals

6. The Rules of Procedure contained in Schedule 1 to these Regulations shall continue to have effect in relation to appeals by persons assessed to a levy under a levy order that came into operation before 13th March 1967, and the Rules of Procedure contained in Schedule 2 to these Regulations shall have effect in relation to appeals by persons assessed to a levy under a levy order coming into operation on or after that date."

6. After Regulation 6 of the principal Regulations there shall be inserted the following Regulation:—

" Proof of Decisions of Tribunals

7. The production in any proceedings in any court of a document purporting to be certified by the Secretary of the Tribunals to be a true copy of an entry of a decision in the Register of Appeals shall, unless the contrary is proved, be sufficient evidence of the document and of the facts stated therein."

7. The Schedule to the principal Regulations shall become Schedule 1 thereto, and immediately following upon that Schedule there shall be added a further Schedule (to be called Schedule 2) in the form contained in the Schedule to these Regulations.

1st March 1967.

R. J. Gunter,
Minister of Labour.

SCHEDULE

BEING SCHEDULE 2 TO THE PRINCIPAL REGULATIONS

RULES OF PROCEDURE

APPLICABLE TO APPEALS UNDER LEVY ORDERS COMING INTO OPERATION ON OR AFTER
13TH MARCH 1967

Notice of Appeal

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

Action upon receipt of appeal

2.—(1) Subject to the provisions of Rules 3 and 4, the Board upon receiving the notice of appeal shall send within 21 days to the Secretary of the Tribunals—

(a) one copy of the notice of appeal;

(b) a copy of the assessment notice and of any notice by the Board allowing further time for appealing;

(c) a notice giving the Board's address for service under these Rules where that address is different from the address specified in the assessment notice as the address for service of a notice of appeal; and

(d) any representations in writing relating to the appeal that the Board may then desire to submit to the tribunal.

(2) Failure to comply with any provision of this or the next following Rule shall not render the appeal or anything done in pursuance thereof invalid.

Further particulars of appeal

3.—(1) Subject to Rule 4, this Rule applies in a case where the Board upon receiving the notice of appeal requires further particulars of the grounds on which the appellant intends to rely and of any facts and contentions relevant thereto.

(2) The Board shall within 21 days of receiving the notice of appeal send to the appellant a notice specifying the further particulars required by the Board.

(3) The appellant shall within 21 days of receiving the said notice, or within such further period as the Board may allow, send to the Board in duplicate such further particulars.

(4) Subject to the provisions of the next following paragraph, the Board shall within 21 days of receiving such further particulars send to the Secretary of the Tribunals—

(a) the documents specified in Rule 2;

(b) a copy of the notice requiring the further particulars; and

(c) such further particulars, and any representations in writing with respect thereto that the Board may then desire to submit to the tribunal.

(5) If such further particulars are not received by the Board in due time the documents mentioned in sub-paragraphs (a) and (b) of the foregoing paragraph shall be sent by the Board to the Secretary of the Tribunals not later than—

(a) the 50th day after the receipt of the notice of appeal by the Board; or

(b) if the Board has allowed a further period of time for delivery of further particulars under paragraph (3) of this Rule, the 7th day after the expiration of such period.

Withdrawal of appeal or assessment

4.—(1) The appellant may withdraw the notice of appeal by notice given to the Board at any time before the entry of the appeal in the Register of Appeals under Rule 5(a) and in that event no further action shall be taken in relation to the appeal.

(2) Where an assessment is withdrawn by the Board, no further action shall be taken in relation to the appeal.

Entry of appeal

5. Upon receiving from the Board the relevant documents in accordance with Rule 2(1), Rule 3(4) or Rule 3(5) the Secretary of the Tribunals shall as soon as may be—

(a) enter particulars of the appeal in the Register of Appeals;

(b) give notice to the appellant and to the Board of the case number of the appeal entered in the Register (which shall thereafter constitute the title of the appeal) and of the address to which notices and other communications to the Secretary of the Tribunals shall be sent;

(c) give notice to the appellant of the Board's address for service under these Rules; and

(d) send to the appellant a copy of any representations in writing that the Board has submitted to the tribunal under Rule 2 or Rule 3.

Directions for further particulars

6.—(1) In any case in which an appellant has not sent to the Board further particulars in accordance with a notice sent by the Board under Rule 3 the tribunal may,

on the application of the Board (which may be sent to the Secretary of the Tribunals with the documents referred to in Rule 3(5)), by notice direct the appellant to supply such further particulars of the grounds on which he intends to rely and of any facts and contentions relevant thereto as may be specified in the notice, and the appellant shall send such particulars in duplicate to the Secretary of the Tribunals within such time as the tribunal shall direct.

(2) Upon receipt of further particulars from the appellant the Secretary of the Tribunals shall send a copy thereof to the Board.

(3) If the appellant makes default in complying with a direction made by the tribunal under this Rule the tribunal may on the application of the Board dismiss the appeal or give such other directions as may seem proper.

(4) The tribunal may at any time by notice direct the Board to furnish any particulars relating to 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.

Attendance of witnesses and discovery

7.—(1) On the application of the appellant or the Board made either by notice to the Secretary of the Tribunals or at the hearing the tribunal may—

(a) grant to that party such discovery and inspection of documents as might be granted by a county court; or

(b) require any person (including a party to the proceedings) to attend as a witness and to give evidence or to produce any documents in his possession or power which relate to the appeal;

and may appoint the time at or within which or the place at which any act required in pursuance of this Rule is to be done.

(2) A party on whom a requirement has been made under paragraph (1)(a) of this Rule or a person on whom a requirement has been made under paragraph (1)(b) may, if such requirement was made upon an *ex parte* application, apply to the tribunal to vary or set aside the requirement, and notice of such an application shall be given to the party upon whose application the requirement was made.

(3) No application to vary or set aside a requirement as aforesaid shall be entertained by the tribunal in a case where a time has been appointed in relation to the requirement unless the application is made before the time or, as the case may be, the expiration of the time so appointed.

(4) Every document containing a requirement under paragraph (1) of this Rule shall contain a reference to the fact that under section 46(4) of the Redundancy Payments Act 1965 any person who without reasonable excuse fails to comply with any such requirement is liable on summary conviction to a fine not exceeding £50 or imprisonment for a term not exceeding three months or both.

Time and place of hearing of appeal

8. The President (or a member of the panel of chairmen nominated by him for such purpose) 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

9.—(1) Any hearing of or in connection with an appeal shall take place in private, unless the appellant requests that the hearing shall be in public, but a member of the Council on Tribunals shall be entitled to attend the hearing in his capacity as such member.

(2) If the appellant or the Board 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

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

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

Procedure at hearing

11.—(1) At the hearing of an appeal 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 a hearing the tribunal may dispose of the appeal or application 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 these Rules.

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

Decision of tribunal

12.—(1) A 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: Provided that the specification of the reasons for the decision shall be omitted from the Register in any case in which the tribunal on the application of the appellant so directs on the ground that disclosure would be contrary to the interests of the appellant, and in that event a specification of the reasons shall be sent to the appellant and the Board together with the copy of the entry.

(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 in documents recording the tribunal's decisions clerical mistakes or errors arising therein from any accidental slip or omission.

(6) The clerk to the tribunal shall send a copy of any document so corrected and the certificate of the chairman to the Secretary of the Tribunals who shall thereupon make such correction as may be necessary in the Register of Appeals and shall send a copy of the corrected entry or of the corrected specification of the reasons, as the case may be, to the appellant and the Board.

Costs

13.—(1) The decision of the tribunal may include:—

(a) an order that the Board shall pay to the appellant or that the appellant shall pay to the Board either a specified sum in respect of the costs incurred by the appellant or the Board, as the case may be, or, in default of agreement, the taxed amount of those costs;

(b) an order that the Board or the appellant shall pay to the Minister a specified sum in respect of the whole, or any part of, any allowances paid by the Minister under section 12(3) of the Act (as amended by section 46(5) of the Redundancy Payments Act 1965) to any person, other than a member of the tribunal, for the purposes of, or in connection with, his attendance at the tribunal.

(2) Any costs required by an order under paragraph (1) of this Rule to be taxed may be taxed in the county court according to such of the scales prescribed by county court rules for proceedings in the county court as shall be directed by the order.

Miscellaneous powers of tribunal

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

- (a) subject to Rule 7(3), extend the time appointed by these Rules for doing any act notwithstanding that the time appointed may have expired;
- (b) before granting an application referred to in Rule 6(1), Rule 6(3), Rule 7(1) or Rule 15 require the party making the application to give notice thereof to the other party;
- (c) postpone the day or time fixed for, or adjourn the hearing of, any appeal or application;
- (d) if at any time after the entry of the appeal in the Register of Appeals the appellant shall give notice of the abandonment of his appeal to the Secretary of the Tribunals and to the Board, or the Board shall give notice that the appeal is not contested to the Secretary of the Tribunals and to the appellant, dismiss or allow the appeal, as the case may be, and thereupon Rule 13 shall apply;
- (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) A notice under paragraph (1)(b) of this Rule shall give particulars of the application and indicate the address to which and the time within which any objection to the application shall be made, being an address and time specified by the tribunal for the purposes of the application.

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

(4) The President, the chairman of the tribunal or a member of the panel of chairmen for the time being nominated by the President for the purpose may decide an application made under these Rules, and any other act, except the hearing of an appeal, required or authorised by these Rules to be done by the tribunal may be done by, or on the direction of, any such person.

(5) Any functions of the Secretary of the Tribunals other than those mentioned in Rule 5 or Rule 12 may be performed by an Assistant Secretary of the Tribunals.

Applications

15.—(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 (subject to Rule 7(3)) 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 made under the foregoing provisions of these Rules or to the tribunal 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 in the case where an appeal has not been entered in the Register of Appeals, and shall set out the grounds of the application.

(4) The Secretary of the Tribunals shall give notice to the appellant and to the Board of any extension of time granted by the tribunal or of any directions given by the tribunal in pursuance of these Rules.

Notices, etc.

16.—(1) Any notice given under 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 hereinafter mentioned may be sent by post by means of the recorded delivery service or delivered to or at—

- (a) in the case of a notice of appeal, the Board's address for service specified in the assessment notice;

- (b) in the case of any other document directed to the Board, the Board's address for service;
- (c) in the case of a document (other than a notice of appeal) directed to the Secretary of the Tribunals, the Central Office of the Industrial Tribunals (England and Wales) or such other office as may be notified by the Secretary of the Tribunals to the appellant and to the Board under Rule 5(b) or paragraph (3) of this Rule;
- (d) in the case of a document directed to the appellant, his address for service specified in a notice given under these Rules, or, failing such a notice, his last known address or place of business in the United Kingdom or, if the appellant is a corporation, such address or place of business or its registered or principal 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 the appellant or the Board as the case may be.

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

(3) The Secretary of the Tribunals shall give notice to the appellant and to the Board of any change in an address of which notice has been given to the parties under Rule 5(b).

APPENDIX

FORM 1

INDUSTRIAL TRAINING ACT 1964

NOTICE OF APPEAL AGAINST AN ASSESSMENT

TO

*INDUSTRY TRAINING BOARD

AND TO

The Secretary of the Central Office
of the Industrial Tribunals (England and Wales)

I/we† of §
hereby give notice that I/we† appeal to an appeal tribunal under the Industrial Training Act 1964, sections 4 and 12, against the assessment to the levy made by the above-mentioned industrial 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 §

*Insert name of the Board.

Dated 19.....

†Insert the address of the Board.

‡Delete if inapplicable.

Signed ¶

§Insert address as applicable.

¶If the notice is signed on behalf of the appellant, the signatory must state in what capacity or by what authority he signs.

NOTE. This notice must be sent to the Board in duplicate at the address stated in the assessment notice. It may be sent by post by means of the recorded delivery service or delivered at that address.

FORM 2

INDUSTRIAL TRAINING ACT 1964

NOTICE OF HEARING

Case No.

*Central/*Regional Office of the
Industrial Tribunals (England
and Wales),
.....
.....

Tribunal.....

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, or as soon as may be thereafter.

Unless the appellant receives from me a communication to the contrary, he should in his own interest 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 by another 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.

The appellant and the Board are entitled to submit representations in writing for consideration of the tribunal at the hearing of the appeal. Any such representations must be sent to the Secretary of the Industrial Tribunals (England and Wales) *at the address mentioned at the head of this notice* not less than seven days before the hearing, and a copy must be sent at the same time to the other party. If either or both parties fail to attend the hearing, the tribunal may dispose of the appeal in their absence, but in such case the tribunal will consider any representations so submitted.

Dated 19.....

Signed

*Secretary/*Assistant Secretary.

To the Appellant.....
and

To..... Industry Training Board.

*Delete if inapplicable.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Industrial Tribunals (England and Wales) Regulations 1965. They make further provisions as to the constitution of the Industrial Tribunals (England and Wales). The tribunals were established under the Industrial Training Act 1964 section 12 for the determination of appeals against assessments to a levy imposed by an industrial training board; their jurisdiction has since been extended to the determination of appeals and questions arising under the Redundancy Payments Act 1965, in relation to redundancy and certain other matters, the Selective Employment Payments Act 1966 section 7 and the Docks and Harbours Act 1966 section 51.

In the Schedule to the Regulations there are set out revised Rules of Procedure for the determination of appeals arising under levy orders coming into operation on or after 13th March 1967.