
STATUTORY INSTRUMENTS

1984 No. 1159

The Industrial Training (Northern Ireland) Order 1984

Levies and remission

Levies

23.—(1) An industrial training board may submit to the Department for the Department's approval proposals (in this Order referred to as levy proposals) for the raising and collection of a levy to be imposed for the purpose of raising money towards meeting the board's expenses.

(2) The Department may make an order imposing a levy (in this Order referred to as a levy order) giving effect to levy proposals approved under paragraph (1) and providing for the levy to be imposed on employers in the industry except in so far as they are exempted from it by the industrial training order or the levy order.

(3) Levy proposals shall include proposals for exempting from the levy any employer who, in view of the small number of his employees or the small amount of the relevant emoluments, ought in the opinion of the board to be exempted and the Department shall not make a levy order in pursuance of levy proposals unless they provide for the exemption of employers who, in view of the small number of their employees or the small amount of the relevant emoluments, ought in the opinion of the Department to be exempted.

(4) Levy proposals may include proposals for part of the levy not to be eligible for remission (in this Order referred to as the non-remissible part of the levy)

(5) The Department shall not make a levy order in pursuance of any levy proposals unless the Department is satisfied that remission proposals provide for full remission of the remissible part of the levy in such cases as the Department considers appropriate.

(6) The Department shall not make a levy order in pursuance of levy proposals which include proposals that the amount of the non-remissible part of the levy will exceed two-tenths of one per cent. of the relevant emoluments unless—

- (a) the Department is satisfied that the proposals are necessary to encourage adequate training in the industry; and
- (b) one of the conditions mentioned in paragraph (7) is satisfied.

(7) The conditions referred to in paragraph (6) are—

- (a) that the relevant organisations consider, after taking reasonable steps to ascertain the views of the persons they represent, that the proposals are necessary to encourage adequate training in the industry;
- (b) that the order—
 - (i) will be made less than two years after the making of a former levy order giving effect to proposals made by the board in respect of which the Department was satisfied that the condition in sub-paragraph (a) was applied; and
 - (ii) will not provide for a level of non-remissible levy higher than that provided for by the former order;
- (c) that neither of the conditions mentioned in sub-paragraphs (a) and (b) applies but the proposals are considered by the Department to be appropriate in the circumstances.

(8) The Department shall not make a levy order in pursuance of any levy proposals if the Department estimates that the amount which would, if the order were made, be payable by virtue of it by any employer in the industry exceeds an amount which the Department estimates is equal to one per cent. of the relevant emoluments, unless—

- (a) the Department is satisfied that the proposals are necessary to encourage adequate training in the industry; and
- (b) one of the conditions mentioned in paragraph (9) is satisfied.

(9) The conditions referred to in paragraph (8)(b) are—

- (a) that the relevant organisations consider, after taking reasonable steps to ascertain the views of the persons they represent, that the proposals are necessary to encourage adequate training in the industry;
- (b) that the condition mentioned in sub-paragraph (a) does not apply but the proposals are considered by the Department to be appropriate in the circumstances.

(10) In this Article—

the relevant emoluments in relation to any person means the aggregate of the emoluments and payments intended to be disbursed as emoluments which are paid and payable by him to or in respect of persons employed in the industry in respect of the period specified in the levy proposals as the period which is relevant for the purposes of this Article, and

the relevant organisations means organisations appearing to the Department to represent more than half the persons who the Department considers are likely to be liable to make payments by way of levy in consequence of the proposals and organisations appearing to the Department to represent persons who the Department considers are together likely to be liable to make payments by way of levy in consequence of the levy proposals which amount to more than half the aggregate amount of those payments.

Supplementary provisions as to levies

24.—(1) Levy proposals shall include such information or further additional information as the Department directs the board to furnish, and any additional information which the board considers appropriate.

(2) Without prejudice to the provisions of section 17 of the Interpretation Act (Northern Ireland) 1954, levy proposals may provide for the amendment of a previous levy order and may make different provision in relation to different classes of employers and, in particular, proposals made in pursuance of Article 23(3) may be made in respect of different numbers of employees or different amounts of relevant emoluments (within the meaning of Article 23(10)) for different employers or classes of employers and may provide for numbers of employees or for employers or classes of employers to be determined by reference to such factors as are specified in the proposals.

(3) A levy order—

- (a) may provide for payments by way of levy to accrue due from day to day over a period specified in the order;
- (b) may contain provisions as to the evidence by which a person's liability to the levy or his discharge of that liability may be established and as to the time at which any amount payable by any person by way of the levy shall (whether or not any period over which that amount accrues due has expired) become due and recoverable by the industrial training board.

(4) A person assessed to levy imposed under a levy order may appeal to an industrial tribunal and the levy order shall make provision as to the time within which such an appeal may be made.

(5) On an appeal under paragraph (4)—

- (a) if the appellant satisfies the tribunal that he ought not to have been assessed to the levy or ought to have been assessed in a smaller amount, the tribunal shall rescind or, as the case may be, reduce the assessment but (subject to sub-paragraph (b)) in any other case shall confirm it; and
 - (b) if it appears to the tribunal that the appellant ought to have been assessed to the levy in a larger amount, the tribunal may increase the assessment accordingly.
- (6) A levy order which falls within Article 23(6) in a case where the condition mentioned in paragraph (7)(c) of that Article is satisfied or which falls within Article 23(8) in a case where paragraph (9)(b) of that Article is satisfied shall state that fact.
- (7) Subject to paragraph (8), a levy order shall be subject to negative resolution.
- (8) A levy order which includes such a statement as is mentioned in paragraph (6) shall be subject to affirmative resolution.

Remission proposals

25.—(1) An industrial training board shall, at or before the time when it submits levy proposals under Article 23 (1), submit to the Department for the Department's approval proposals (in this Order referred to as “remission proposals”) for the remission by the board of the remissible part of the levy, that is to say, so much of the levy as does not, under the levy order, consist of the non-remissible part of the levy.

(2) Remission proposals shall include proposals for the full remission of the remissible part of the levy for employers in the industry who—

- (a) make arrangements for the training, or the training and education associated with training, of persons employed or to be employed in the industry; and
- (b) satisfy the industrial training board by reference to criteria specified in the proposals that the arrangements are adequate and are to a material extent being implemented.

(3) The criteria for arrangements made by employers which by virtue of sub-paragraph (b) of paragraph (2) are to be specified in proposals submitted under that paragraph shall relate to the quality and amount of training, or training and education, provided for by the arrangements, but need not relate solely to the needs of establishments of the employers; and the proposals may specify different criteria as respects arrangements made by different categories of employers.

(4) The Department may issue guidance concerning the criteria which by virtue of sub-paragraph (b) of paragraph (2) are to be specified in proposals submitted under that paragraph.

(5) If the Department approves proposals submitted to it by an industrial training board under paragraph (1) the Department shall inform the board accordingly and the board shall arrange for them to be published as soon as practicable in a manner approved by the Department.

(6) This Article and Article 26 shall not apply where the levy proposals for a particular category of employers include—

- (a) proposals that no remission be given to employers in that category; or
- (b) proposals by virtue of which the levy payable by any employer in that category will not exceed two-tenths of one per cent. of relevant emoluments within the meaning of Article 23(10).

Remission

26.—(1) Where the Department approves remission proposals of an industrial training board under Article 25(5), the board shall give effect to them.

(2) Subject to paragraph (3), remission shall take the form of repayment by an industrial training board of levy paid under the levy order.

(3) If an industrial training board so agrees in any particular case, remission shall take the form of non-payment to the board of an amount of levy to which a person would otherwise be liable under the levy order.

(4) If an industrial training board does not give a person assessed to levy imposed under a levy order full remission of the remissible part of the levy, he may apply to the board for the board to refer its decision to the committee appointed under paragraph 5(2) of Schedule 2 and remission proposals shall make provision as to the time within which such an application may be made.

(5) On a reference under paragraph (4)—

- (a) if the applicant satisfies the committee that he ought to have been given an amount of remission greater than that given by the industrial training board, the committee shall recommend by what amount the amount of remission given to the applicant should be increased;
- (b) if the applicant does not so satisfy the committee, the committee shall recommend either that the board should confirm the amount of remission given to the applicant or by what amount it should be reduced.

and the board shall consider the recommendation of the committee and may give effect to it.

Changes to legislation:

There are currently no known outstanding effects for the The Industrial Training (Northern Ireland) Order 1984, Levies and remission.