



Further Education and Training Act 2007

2007 CHAPTER 25

PART 3

INDUSTRIAL TRAINING LEVIES

24 Conditions relating to levy proposals

- (1) Section 11 of the Industrial Training Act 1982 (c. 10) (levies imposed for industrial training board expenses) is amended as follows.
- (2) In subsection (6) (conditions relating to certain levy proposals), for paragraph (a) substitute—
 - “(a) that the Secretary of State is satisfied that—
 - (i) the board has taken reasonable steps to ascertain the views of persons who the Secretary of State considers are likely to be liable to make payments by way of levy in consequence of the levy proposals, and
 - (ii) a class of persons, who together satisfy the requirements in subsection (6A) below, considers that the proposals are necessary to encourage adequate training in the industry;”.
- (3) After subsection (6) insert—
 - “(6A) The requirements referred to in subsection (6)(a) above are that—
 - (a) the class must consist of more than half of those persons who the Secretary of State considers are likely to be liable to make payments by way of levy in consequence of the levy proposals; and
 - (b) the class must include such persons as the Secretary of State 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.”
- (4) After subsection (6A) (as inserted by subsection (3)) insert—

“(6B) The Secretary of State may by regulations make provision as to what constitutes “reasonable steps” for the purposes of subsection (6)(a) above.

(6C) Regulations under subsection (6B) above may include—

- (a) provision for ascertaining the views of persons with respect to levy proposals by means of a sample of those persons;
- (b) provision for treating a person who is represented by an organisation of such description as may be prescribed by the regulations as having the same view as the organisation with respect to levy proposals.

(6D) Regulations under subsection (6B) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(5) In subsection (8) (interpretation) omit the definition of “the relevant organisations”.

25 Duration of levy orders

(1) Section 11 of the Industrial Training Act 1982 (c. 10) is amended as set out in subsections (2) to (5).

(2) After subsection (2) insert—

“(2A) Levy proposals must provide for one or more periods (in this Act referred to as “levy periods”) by reference to which a person’s liability to levy is to be established and the levy period or periods must fall within the period of three years beginning with the day on which the levy order giving effect to the proposals is made.

Levy proposals may not provide for more than three levy periods.

(2B) Subsection (2A) above is subject to subsections (2C) and (2D) below.

(2C) If the levy order giving effect to levy proposals submitted by an industrial training board would be the first or second levy order giving effect to proposals submitted by the board, the proposals may instead provide for a single levy period that falls within the period of one year starting with the day on which the levy order giving effect to the proposals is made.

(2D) No levy order may be made in reliance upon subsection (6)(b) below unless the proposals in pursuance of which the order would be made provide for a single levy period that falls within the period of one year starting with the day on which the levy order giving effect to the proposals is made.

(2E) Levy proposals must specify, for each levy period, a period (in this Act referred to as a “base period”) by reference to which the relevant emoluments are to be calculated.”

(3) In subsection (6), for paragraph (b) substitute—

“(b) that the order will be made—

- (i) after the making of a levy order (“the earlier levy order”) in respect of which the Secretary of State was satisfied that the condition in paragraph (a) above applied, and
- (ii) within the period described in subsection (6E) below,

and the condition in subsection (6F) or (6G) below is satisfied;”.

(4) After subsection (6D) (as inserted by section 24) insert—

“(6E) The period mentioned in subsection (6)(b)(ii) above is—

- (a) if the earlier levy order provides for such levy periods as are referred to in subsection (2A) above, the period beginning with the third anniversary and ending with the fourth anniversary of the making of the earlier levy order;
- (b) if the earlier levy order provides for such levy period as is referred to in subsection (2C) above, the period beginning with the first anniversary and ending with the second anniversary of the making of the earlier levy order.

(6F) The condition in this subsection is that the proposals relating to the earlier levy order included proposals for securing—

- (a) that no exemption certificates should be issued; or
- (b) that the exemption certificates to be issued should not exempt employers from any of the levy payable in respect of any levy period.

(6G) The condition in this subsection is that—

- (a) the proposals in pursuance of which the earlier levy order was made included proposals for securing that exemption certificates should not exempt employers from a portion of the levy payable in respect of a levy period; and
- (b) the percentage of the relevant emoluments from which under the current proposals the exemption certificates will not exempt any person will not exceed the percentage of the relevant emoluments in respect of any of the base periods specified in the earlier levy order from which that person was not exempted under that order.”

(5) In subsection (8), in the definition of “the relevant emoluments”, for the words from “the period specified” to the end substitute “a period specified in levy proposals as a base period.”

(6) In section 12 of that Act, after subsection (1) insert—

“(1A) Subsection (1B) below applies where a levy order (“the new levy order”) giving effect to levy proposals submitted by an industrial training board will be made—

- (a) after the making of a levy order (“the earlier levy order”) that gives effect to earlier proposals submitted by the board, and
- (b) within three years or, where the earlier levy order provides for a single levy period in accordance with section 11(2C) or (2D) above, within one year after the making of the earlier levy order.

(1B) The proposals for the new levy order must include proposals for securing that no liability to levy is imposed under the earlier levy order by reference to such part of a levy period provided for in the earlier levy order as falls on or after the day on which the new levy order is made.”