

- *Appeals to Employment Tribunals against levy assessments*
- *An explanatory leaflet for Appellants*

## ***Introduction***

This booklet explains the procedure for appeals against Levy Assessments under various training Levy Orders, as laid down in the following statutory instruments.

- (a) The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2001 (as amended); and
- (b) The Employment Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 2001 (as amended).

The regulations and Levy Orders, (which explain the methods and procedure of appeal), are obtainable from any branch of The Stationery Office. This booklet is purely explanatory and should not be regarded as an authoritative statement of law.

## ***Employment Tribunals***

Employment Tribunals are independent judicial bodies. The tribunal will always include a legally qualified Chairman, a solicitor or barrister of several years standing, who is appointed in England by the Lord Chancellor, and in Scotland by the Lord President of the Court of Session. The tribunal will normally include two lay members, drawn from persons with experience in dealing with work-related problems. The lay members are appointed by the Secretary of State for Trade and Industry.

## ***Notice of appeal***

Appeal forms may be obtained from the office of the Industrial Training Board against whose assessment the appeal is being made. The Notice of Appeal must be given substantially in accordance with the prescribed form and must set out the grounds of the appeal. The appeal form makes provision for requests that correspondence regarding the appeal be addressed to the appellant's legal adviser or agent. If so, it is the appellant's responsibility to ensure that the adviser or agent reports progress on the case.

## ***Where to send your appeal***

Two copies of the completed Notice of Appeal must be sent to the Industrial Training Board against whose assessment the appeal is made within one month of the service of the assessment notice, or within such extended period allowed by the Board or Employment Tribunal.

## ***Extension of time for appealing***

The Board or tribunal may, in certain circumstances, extend the time limit for appeal for up to four months after the date of the serving of the assessment notice; or, in the case of an establishment which has ceased trading, to six months from cessation of business.

Applications for extension of time should initially be made to the Board at the address stated on the assessment notice. If the Board does not grant an extension the appellant may then apply under the provisions of the Levy Order by writing to the Secretary of the Employment Tribunals at the appropriate address given at the end of this booklet.

There is provision for further extension of the appeal time but this must be applied for before the end of the current period.





### ***Request for further particulars***

The Board may ask the appellant for further particulars relating to the appeal; this must be done within 21 days of the receipt of the appeal notice. Within 21 days of receiving the request the appellant must send two copies of such further particulars to the Board, unless the appeal is withdrawn.

Unless the assessment is withdrawn the Board will, within 21 days of receiving further particulars, send the appeal notice and other specified documents to the Secretary of Employment Tribunals.

If the appellant fails to provide the requested further particulars the Board may ask the tribunal, when the appeal is registered, to direct the appellant to do so within a specified period and on receipt of the further particulars the tribunal will send a copy of the particulars to the Board. If the appellant still does not comply the tribunal may, on application by the Board, dismiss the appeal. The tribunal may also require the Board to furnish particulars relating to the assessment; a copy of these will be sent to the appellant.

### ***Withdrawal of appeal or assessment prior to the entry of appeal***

At any time before the appeal is entered in the Register of Appeals, the appellant may withdraw the appeal by notice given to the Board. The Board may also withdraw the assessment. In these events no further action on the appeal is taken.

### ***Registration and hearing of the appeal***

Unless the appeal or assessment is withdrawn, the notice and other specified documents are submitted by the Board to the Secretary of the Employment Tribunals who will enter the appeal in the Register of Appeals. The appellant and the Board will then be told the case number of the appeal and the address of the tribunal office dealing with the case to which correspondence should be addressed. A copy of any written representations by the Board will be sent by the tribunal to the appellant.

### ***Notice of the hearing***

After the appeal is entered on a hearing list both parties are advised of the date, time and place of hearing at least 14 days before the date of the hearing. In the event of failure to attend of either party, the tribunal, after considering any written representations, may dispose of the appeal or adjourn the hearing to a later date.

### ***Attendance of witnesses and production of documents***

The appellant or Board may apply either by notice in writing to the Secretary of the Industrial Tribunals, or at the hearing, for such discovery and inspection (in Scotland recovery) of documents relating to the appeal as may be granted by a County Court in England and Wales or the Sheriff in Scotland, or for the requirement of attendance of witnesses. Any person who, without reasonable excuse, fails to comply with this requirement, is liable on summary conviction, to a fine not exceeding £1000.

Any application in writing to vary or set aside the above requirement may be made before the date set for compliance.



---

## ***The hearing***

The appeal is normally heard in public. It will be heard by three members of the tribunal unless, in the absence of one member, the parties agree to be heard by the remaining two members. In that case the chairman has the casting vote.

Both parties may appear at the hearing of the appeal and be heard in person or be legally represented. Parties are entitled to call witnesses in support of their case, and each party may cross-examine witnesses called by the other side. The appellant may be represented by counsel, solicitor or by any other person. The tribunal may require any witness to give evidence on oath or affirmation.

## ***Abandonment of appeal***

If at any time after the entry of the appeal either party decides not to proceed with the case, the tribunal may, upon application, dismiss or allow the appeal. In that event the other party may be awarded costs (in Scotland expenses) by the tribunal.

## ***The decision***

A copy of the document containing the decision of the tribunal and the reason for the decision is sent to the parties by the Secretary of the Employment Tribunals. The document is entered in the Register of Appeals, open to public inspection. The tribunal, may however omit the reasons for the decision from the register, on the application of the appellant, if disclosure would be contrary to the interests of the appellant.

The tribunal's decision is final except where a party is of the opinion that it is wrong on a point of law. In this case that party must appeal within 42 days from the date on which the decision was sent to the parties, to the High Court in England or Wales or to the Court of Session in Scotland.

## ***Costs or expenses***

The decision of the tribunal may include an order for payment of costs (expenses in Scotland) by one party to the other. It may also require payments to the Secretary for Trade and Industry in respect of allowances to persons (other than members of the tribunal) for attendance at the tribunal.

## ***Addresses***

Communications about proceedings before an Employment tribunal should be addressed to the appropriate Employment Tribunal Office.

## ***Data Protection Act***

Information provided to Employment Tribunals about an application may be placed on computer to help with the work that has to be done on a case and for statistics to be produced. If you want a copy of the information held on computer, write to the Data Protection Officer, Department of Trade and Industry, Information Management and Process Engineering Directorate, Bay 541, 151 Buckingham Palace Road, London. SW1W 9SS. The Department may make a small charge for responding to such a request.

---

Received at ITO

FOR OFFICE USE

Case Number

Code

Initials

**NOTICE OF APPEAL AGAINST LEVY ASSESSMENT – INDUSTRIAL TRAINING ACT 1982**

1 To (name of Board)

Industrial Training Board

Address of Board

I / We

of

hereby give notice that I/we appeal to an Industrial Tribunal under Section 12(4) of the Industrial Training Act 1982, against the assessment to the levy made by the above-mentioned Industrial Training Board on:

Date

Assessment number

2 Grounds of Appeal

The grounds of my / our appeal are as follows:

P.T.O.

2 Grounds of Appeal (continued)

3 Address for Service

Complete either a. or b.

All communications regarding the appeal should be addressed to:

a. me/us at:

or

b. my/our Solicitor / Representative  
(give name and address):

Signature .....

Date .....

If the notice is signed on behalf of the appellant, the person who signs it must state below in what capacity or authority they sign.

NOTE:

*This notice, along with one copy, must be sent to the Board at the address at 1. above. It may be sent by post using the recorded delivery service or delivered by hand to that address.*

***Where to send your appeal***

Two copies of the completed Notice of Appeal must be sent to the Industrial Training Board against whose assessment the appeal is made within one month of the service of the assessment notice, or within such extended period allowed by the Board or Employment Tribunal.