



Number 41 of 2000

NATIONAL TRAINING FUND ACT, 2000

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. National Training Fund.
3. Levy.
4. Rate of levy and supplemental provisions.
5. Collection of levy.
6. Supply of information by the Revenue Commissioners.
7. Payments from the Fund.
8. Offences and penalties.
9. Repeals.
10. Expenses.
11. Short title and commencement.

SCHEDULE

ENACTMENTS REPEALED

[No. 41.] *National Training Fund Act, 2000.* [2000.]

ACTS REFERRED TO

Bankruptcy Act, 1988	1988, No. 27
Companies Act, 1963	1963, No. 33
Industrial Training Act, 1967	1967, No. 5
Industrial Training (Apprenticeship Levy) Act, 1994	1994, No. 3
Petty Sessions (Ireland) Act, 1851	14 & 15 Vict., c. 93
Social Welfare (Consolidation) Act, 1993	1993, No. 27
Taxes Consolidation Act, 1997	1997, No. 39



Number 41 of 2000

NATIONAL TRAINING FUND ACT, 2000

AN ACT TO PROVIDE FOR THE IMPOSITION OF A LEVY ON EMPLOYERS, IN RESPECT OF CERTAIN EMPLOYEES, TO BE KNOWN AS THE NATIONAL TRAINING FUND LEVY, TO BE USED TO GIVE SKILLS TO, OR RAISE SKILLS AMONGST THOSE IN, OR SEEKING, EMPLOYMENT, TO PROVIDE FOR THE ESTABLISHMENT OF A FUND IN RESPECT OF THAT LEVY AND THE MANNER IN WHICH THAT FUND SHALL BE ADMINISTERED, TO PROVIDE FOR THE REPEAL OF THE INDUSTRIAL TRAINING (APPRENTICESHIP LEVY) ACT, 1994, AND CERTAIN SECTIONS OF THE INDUSTRIAL TRAINING ACT, 1967, AND TO PROVIDE FOR RELATED MATTERS. [20th December, 2000]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

“Act of 1993” means the Social Welfare (Consolidation) Act, 1993;

“Collector-General” means the Collector-General appointed under section 851 of the Taxes Consolidation Act, 1997;

“contribution year” means a year of assessment within the meaning of the Income Tax Acts;

“employed contributor” means an employed contributor, within the meaning of the Act of 1993, other than a person to whom—

(a) paragraph 12 of Part I of the First Schedule to the said Act,
or

(b) article 81(1), 82(1), 83(1), 86(1) or 88(1) of the Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996 (S.I. No. 312 of 1996),

applies;

“employment contribution” has the same meaning as it has in the Act of 1993;

“Fund” has the meaning assigned to it by *section 2*;

[No. 41.] *National Training Fund Act, 2000.* [2000.]

S.1

“levy” has the meaning assigned to it by *section 3*;

“Minister” means the Minister for Enterprise, Trade and Employment;

“reckonable earnings” has the meaning assigned to it by the Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996 (S.I. No. 312 of 1996);

“Social Insurance Fund” has the same meaning as it has in the Act of 1993;

“special contributor” has the meaning assigned to it by the Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996 (S.I. No. 312 of 1996).

(2) In this Act—

(a) a reference to a section is a reference to a section of this Act, unless it is indicated that reference to some other enactment is intended, and

(b) a reference to a paragraph or subparagraph is a reference to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and

(c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment.

National Training Fund.

2.—(1) There shall stand established, on commencement of this section, a fund which shall be known as the National Training Fund and in this Act is referred to as the “Fund”.

(2) The Fund shall consist of a current account and an investment account.

(3) The Minister shall manage and control the current account of the Fund.

(4) The Minister for Finance shall manage and control the investment account of the Fund.

(5) Save where otherwise specifically provided—

(a) sums payable into the Fund shall be paid into the current account of the Fund, and

(b) sums payable out of the Fund shall be paid out of that account.

(6) Moneys standing to the credit of the current account of the Fund and not required to meet current expenditure shall be transferred to the investment account of the Fund.

(7) Whenever the moneys standing to the credit of the current account of the Fund are insufficient to meet the liabilities of that account, there shall be transferred to that account from the investment account of the Fund such sums as may be necessary for the purpose of discharging those liabilities.

[2000.] *National Training Fund Act, 2000.* [No. 41.]

(8) Subject to *subsection (7)*, moneys standing to the credit of the investment account of the Fund shall be invested by the Minister for Finance and income arising from any such investment shall be paid into that account. S.2

(9) Such an investment may take the form of—

- (a) the application of moneys in the investment account towards the acquisition, holding or disposal of any rights or interests, direct or indirect, in any securities other than shares, or
- (b) the placing of them in deposit accounts in any financial institution or the investment of them in short term financial products, such as certificates of deposit or commercial paper, issued by any person,

in the currency of the State in or outside of the State.

(10) Without prejudice to *subsection (11)*, transactions of a normal banking nature may be engaged in with regard to any investments made under *subsection (9)*.

(11) Securities acquired pursuant to the application, under *subsection (9)*, of moneys in the investment account of the Fund may, for the purposes of the better management of the Fund, be the subject of loans under stock lending arrangements entered into by or on behalf of the Minister for Finance with other persons.

(12) If in any financial year the amount standing to the credit of the Fund is less than the amount proposed to be paid out from the Fund in that financial year there may be paid into the Fund sufficient amounts to make up the shortfall from moneys provided by the Oireachtas.

(13) Any sum payable into the Fund under *subsection (12)* shall be paid in such manner and at such times as the Minister for Finance may determine.

(14) Accounts of the Fund shall be prepared on an annual basis, in such form and in such manner as the Minister for Finance may direct, and the Comptroller and Auditor General shall examine and certify every such account and a copy thereof, together with the report thereon of the Comptroller and Auditor General, shall be laid by the Minister before each House of the Oireachtas.

3.—Subject to and in accordance with the provisions of this Act, there is, by virtue of this section, imposed upon, and there shall be payable in respect of every contribution year by, every employer in respect of every employed contributor who is employed by the employer during any period in the contribution year a levy (which shall be known as the “National Training Fund Levy” and in this Act is referred to as the “levy”). Levy.

4.—(1) Where in a contribution year a payment is made to or for the benefit of an employed contributor in respect of reckonable earnings of that employed contributor, levy shall be payable at the rate of 0.7 per cent. of the amount of those reckonable earnings which that payment comprises. Rate of levy and supplemental provisions.

[No. 41.] *National Training Fund Act, 2000.* [2000.]

S.4

(2) Nothing in *subsection (1)* or any other provision of this Act shall be construed as requiring levy to be paid in relation to a payment of the kind referred to in *subsection (1)* that is made before the commencement of this Act.

(3) An employer shall not deduct from the reckonable earnings of an employed contributor or recover from such contributor any sum in respect of levy paid or payable under this Act.

(4) Where, but for this subsection, levy would be payable in respect of an employed contributor under this Act in a contribution year, then if in that year no employment contribution is payable pursuant to the Social Welfare (Employers Pay-Related Social Insurance Exemption Scheme) Regulations, 1996 (S.I. No. 145 of 1996), in respect of that contributor, the levy shall not be payable.

(5) Where in a particular contribution year an employed contributor's reckonable earnings have amounted to the sum specified in section 10(1)(e) of the Act of 1993 and the levy payable under this Act has been paid in respect of these reckonable earnings, no further such levy shall be payable in respect of any reckonable earnings of that employed contributor by his or her employer in that contribution year.

(6) Where in a particular contribution year an employed contributor is employed by 2 or more employers concurrently (within the meaning of regulations under section 13 of the Act of 1993), *subsection (5)* shall, in relation to the levy, apply to the reckonable earnings from each of the employments separately.

(7) For the purposes of the application of *subsections (5)* and *(6)* in relation to the contribution year during which this Act is commenced, but only for the purposes of that application, there shall be deemed to have been paid in respect of the reckonable earnings of the employed contributor concerned in so much of that year as falls before that commencement, the levy that would have been paid in respect of those earnings if this Act had been in operation at the commencement of that year.

(8) Regulations for the time being in force under section 29A of the Act of 1993 shall apply in relation to levy as they apply in relation to employment contributions.

(9) Levy shall, for the purposes of the collection and recovery of it under *section 5*, be regarded as an employment contribution.

(10) Section 6(1) of the Act of 1993 is amended by the insertion after "under this Act" of "(other than section 6B)".

(11) The Minister for Social, Community and Family Affairs shall pay out of the Social Insurance Fund to the Minister in the financial year 2000 a sum of £120 million.

(12) Moneys held on the commencement of this Act by Foras Áiseanna Saothair for and on account of the levy imposed pursuant to section 21 of the Industrial Training Act, 1967, shall be paid by it, forthwith after such commencement, into the Fund.

Collection of levy.

5.—(1) Where income tax falls due for collection pursuant to Part 42 of the Taxes Consolidation Act, 1997, in respect of an employed contributor, other than a special contributor, any levy payable in respect of the contributor by his or her employer shall be paid by the employer to the Collector-General.

[2000.] *National Training Fund Act, 2000.* [No. 41.]

(2) Where the employed contributor is a special contributor, any S.5 levy payable in respect of the contributor by his or her employer shall be paid by the employer to the Minister for Social, Community and Family Affairs.

(3) All amounts paid to the Collector-General in respect of levy shall be paid by him or her into the Social Insurance Fund.

(4) All amounts paid to the Minister for Social, Community and Family Affairs in respect of levy shall be paid by him or her into the Social Insurance Fund.

(5) The Act of 1993 is amended by the insertion after section 6A of the following section:

“6B.—The Minister shall make payments out of the Social Insurance Fund into the National Training Fund equalling those paid into the first-mentioned fund pursuant to *subsections (3) and (4) of section 5 of the National Training Fund Act, 2000.*”.

(6) The provisions of any enactment relating to the inspection of records, or the estimation, collection and recovery of, or the furnishing of information in relation to, income tax or employment contributions shall, with any necessary modifications, apply in relation to levy required to be collected by the Collector-General or the Minister for Social, Community and Family Affairs as they apply in relation to income tax or employment contributions.

(7) In proceedings instituted by virtue of this Act, a certificate purporting to be signed by or on behalf of, in the case of moneys due pursuant to *subsection (1)*, the Collector-General or, in the case of moneys due pursuant to *subsection (2)*, the Minister for Social, Community and Family Affairs, which states that a specified amount is due and payable by the defendant in respect of levy shall be evidence, until the contrary is proved, that the amount is so due and payable in respect of levy and the certificate shall be deemed, until the contrary is proved, to have been signed by or on behalf of the Collector-General or the Minister for Social, Community and Family Affairs, as appropriate.

(8) For the purposes of this section the rules of court concerned for the time being applicable to civil proceedings shall apply to proceedings by virtue of this section.

(9) There shall be included among the debts which, under section 285 of the Companies Act, 1963, are, in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, levy payable pursuant to *section 3* by the company during the 12 months before the relevant date (being the relevant date within the meaning of the said section 285), and that Act shall have effect accordingly and formal proof of the debts to which the priority is given under this provision shall not be required except in cases where it may otherwise be provided for by rules made under that Act.

(10) *Subsection (9)* shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

(11) There shall be included among the debts which, under section 81 of the Bankruptcy Act, 1988, are, in the distribution of the property of a bankrupt to be paid, subject to section 119 of that Act, in priority to all other debts, all levy payable pursuant to *section 3* by the bankrupt during the period 12 months before the date of the order of adjudication, and that Act shall have effect accordingly, and

[No. 41.] *National Training Fund Act, 2000.* [2000.]

S.5 formal proof of the debts to which priority is given under this subsection shall comply with the provisions of the First Schedule to that Act and any rules of court relating to proof of debt.

(12) *Subsection (11)* shall be construed so as to apply to an arranging debtor in the same manner as it applies to a bankrupt and, accordingly, the reference in that subsection to the period of 12 months before the date of the order of adjudication shall be construed as a reference to the period of 12 months before the date of the presenting of the petition for protection.

Supply of information by the Revenue Commissioners.

6.—So far as may be necessary for the proper administration of this Act, information regarding levy and reckonable earnings of employed contributors in respect of whom levy is payable by their employers which is obtained by the Revenue Commissioners in connection with the collection of income tax or levy may be supplied by them to any person having obligations imposed by any enactment in relation to the collection and recovery of levy or the management or control of the Fund.

Payments from the Fund.

7.—(1) Whenever and so often as the Minister considers that it is appropriate that payments be made from the Fund in respect of a scheme referred to in *subsection (2)*, the Minister may make payments from the Fund for that purpose of such amounts as are determined by him or her with the consent of the Minister for Finance.

(2) The scheme referred to in *subsection (1)* is a scheme the purposes for which it is established are—

- (a) to raise the skills of those in employment, or
- (b) to provide training to those who wish to acquire skills for the purposes of taking up employment, or
- (c) to provide information in relation to existing, or likely future, requirements for skills in the economy.

(3) The consent of the Minister for Finance under *subsection (1)* may be given in relation to amounts to be paid from the Fund in particular periods or by reference to the particular scheme referred to in *subsection (2)* in respect of which payments from the Fund are to be made.

(4) An amount to be paid from the Fund in respect of a scheme shall be so paid to the person or, as the case may be, one or more of the persons administering the scheme.

(5) With respect to the performance generally by the Minister of his or her functions under this section, the Minister shall, from time to time, consult with such representatives of employees and such representatives of employers as he or she considers appropriate.

Offences and penalties.

8.—(1) An employer or the agent of an employer who does not pay levy which is due and payable under *section 3* shall be guilty of an offence.

(2) An employer or an employed contributor or an agent of either of them, who, in purported compliance with any provision of this Act, provides an answer or explanation, makes a statement or produces, lodges or delivers any return, report, certificate or document false in a material particular, knowing it to be false, or being reckless as to whether it is so false, shall be guilty of an offence.

[2000.] *National Training Fund Act, 2000.* [No. 41.]

(3) A person who is guilty of an offence under *subsection (1)* or *S.8 (2)* shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding £10,000 or imprisonment for a term not exceeding 3 years or both.

(4) Summary proceedings in relation to an offence under this Act may be brought and prosecuted—

(a) in the case of an offence under *subsection (1)*—

(i) where the levy failed to be paid was due to the Minister for Social, Community and Family Affairs, by the Minister for Social, Community and Family Affairs or the Minister,

(ii) where the levy failed to be paid was due to the Collector-General, by the Collector-General or the Minister,

and

(b) in the case of an offence under *subsection (1)* or *(2)*, by the Director of Public Prosecutions.

(5) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for any offence under this Act may be instituted—

(a) at any time within 2 years from the date on which the offence was committed, or

(b) at any time within 12 months from the date on which evidence that, in the opinion of the person by whom the proceedings are brought, is sufficient to justify the bringing of the proceedings, comes to that person's knowledge,

whichever is the later, but no such proceedings shall be instituted later than 5 years from the date on which the offence concerned was committed.

(6) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other officer of the body corporate, or any other person who was acting or purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

9.—The enactments mentioned in *column (2)* of the *Schedule* are repealed to the extent mentioned in *column (3)* of that Schedule. Repeals.

10.—(1) The expenses incurred by any Minister of the Government (other than the Minister for Finance) or the Revenue Commissioners in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. Expenses.

[No. 41.] *National Training Fund Act, 2000.* [2000.]

S.10 (2) The expenses incurred by the Minister for Finance in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

Short title and commencement. **11.**—(1) This Act may be cited as the National Training Fund Act, 2000.

(2) This Act shall come into operation on such day as the Minister may appoint by order.

Section 9.

SCHEDULE
ENACTMENTS REPEALED

Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 5 of 1967	Industrial Training Act, 1967	Sections 19(3), 21, 24, 25, 27(2) and the Second Schedule.
No. 3 of 1994	Industrial Training (Apprenticeship Levy) Act, 1994	The whole Act.