

Regulations made under s.26.

**GIBRALTAR DEVELOPMENT CORPORATION
(PRE-OCCUPATIONAL PENSIONS) LEVY
REGULATIONS, 1993**

(LN. 1993/188)

1.1.1994

ARRANGEMENT OF REGULATIONS.

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Gibraltar Development Corporation

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In exercise of the powers conferred on it by section 26 of the Gibraltar Development Corporation Act 1990, and of all other enabling powers, the Government has made the following regulations-

Title and commencement.

1. These Regulations may be cited as the Gibraltar Development Corporation (Pre-Occupational Pensions) Levy Regulations, 1993 and shall come into effect on the 1st day of January, 1994.

Interpretation.

2. In these Regulations, unless the context otherwise requires,—

“employee” means a person employed under a contract of employment and in respect of whom contributions are payable under the Social Security (Employment Injuries Insurance) Act;

“employer” has the meaning given to it in regulation 2 of the Gibraltar Development Corporation (Employers Insolvency) Regulations, 1991;

Provided that the Crown shall be deemed to be an employer for the purposes of these Regulations;

“levy” means the levy provided for in regulation 4.

Appointment of Employment and Training Board.

3. (1) The Employment and Training Board established under the Act is appointed as the person responsible for administering these Regulations.

(2) Subject to having obtained the prior approval in writing of the Corporation, the Board may delegate any of its functions under these Regulations to the Employment Unit appointed by it in accordance with the provisions of the Act.

(3) The Board may appoint inspectors for the purposes of these Regulations and the provisions of regulation 4 of the Gibraltar Development Corporation (Employer’s Insolvency) Regulations, 1991 shall apply as if—

(a) the reference to “the Administrator” is a reference to the Employment and Training Board or to the Employment Unit as the case may be; and

- (b) the reference to “employer” includes a reference to a self-employed person.

(4) The provisions of regulation 5 of the Gibraltar Development Corporation (Employers Insolvency) Regulations shall apply as if the reference in that regulation to “the Administrator” was a reference to the Employment and Training Board or to the Employment Unit as the case may be.

Imposition of levy.

4. (1) A levy is hereby imposed on every employer for the purpose of raising money to provide the financial structure for the purpose of establishing pre-occupational pensions arrangements.

(2) A levy is hereby imposed on self-employed persons for the purpose of raising money to provide the financial structure for the purpose of establishing pre-occupational pensions arrangements.

- (3) Voluntary contributors shall pay a levy of the specified amount.

Rate and payment of levy.

5. (1) The levy shall be paid to the Corporation by every employer (except the Ministry of Defence in respect of the members of the Gibraltar Regiment) at the rate of—

- (a) £10 a week for every employee aged 18 years and over;
- (b) £7 a week for every employee aged under 18 years;
- (c) £8.50 a week for every full-time member of the Gibraltar Regiment.

(2) The levy shall be paid to the Corporation by every self-employed person at the rate of £6.86 per week.

(3) The levy shall be paid to the Corporation by voluntary contributors at the rate of £7.08 a week.

(4) The levy shall be paid in accordance with the provisions relating to contributions payable in accordance with the Social Security (Employment Injuries) Act by means of a single insurance stamp referred to in section 9 of

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that Act or by such other means as are approved in accordance with that section.

Information from employers and self-employed persons.

6. (1) The Corporation may require employers of any category and self-employed persons to furnish such returns and information and to keep such record and to produce them for examination as are necessary for the purpose of ascertaining that the levy payable under these Regulations has been paid.

(2) Subject to subregulation (3), returns and other information furnished in pursuance of the provisions of subregulation (1) and any information obtained on an examination made in pursuance thereof shall not, without the consent of the employer or self-employed person to whose business the returns or information relate, be disclosed otherwise than to the Corporation or to the Controlling Officer of the Pre-Occupational Pensions Payments Fund established by Legal Notice No. 1993/171.

(3) Subregulation (2) shall not apply to any disclosure of information made for the purpose of any legal proceedings pursuant to these Regulations or any criminal proceedings whether pursuant to the provisions of these Regulations or not or for the purposes of any report of any such proceedings.

(4) A person who fails to comply with any requirements made under subregulation (1) is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale or on a second or subsequent conviction, to a fine of twice the amount at level 3 on the standard scale.

(5) A person who—

- (a) knowingly or recklessly furnishes in pursuance of any requirement made under subregulation (1) any return or other information which is false in a material particular; or
- (b) wilfully makes a false entry in any record required to be produced under subregulation (1) or with intent to deceive makes use of any such entry which he knows to be false; or
- (c) discloses any information in contravention of subregulation (2),

is guilty of an offence and is liable on summary conviction to imprisonment for three months and a fine at level 3 on the standard scale.

Employer's contribution irrecoverable from employee.

7. (1) The employer shall not be entitled to deduct from the wages or other remuneration of or otherwise to recover from an employee the levy imposed on the employer in respect of that or any other employee.

(2) An employer who deducts or attempts to deduct from the wages or other remuneration of an employee the whole or any part of the employer's levy, is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine at level 2 on the standard scale.

(3) The provisions of regulation 5 (6) shall apply in respect of an offence against this regulation.

Appeals.

8.(1) Every employer and every self employed person assessed to the levy under these regulations shall have a right to appeal against that assessment to the Industrial Tribunal Constituted under section 12 of the Employment Act.

(2) In hearing an appeal under sub-regulation (1), the Industrial Tribunal shall follow the Industrial Tribunal Rules as nearly as may be.

(3) If, on an appeal to the Industrial Tribunal the appellant satisfies the Tribunal that it or he, as the case may be, ought not to have been assessed to the levy or to have been assessed in a smaller amount, the Tribunal shall rescind, or as the case may be, reduce the assessment, but in any other case shall confirm it.

Offences by bodies corporate, etc.

9. (1) When an offence against these Regulations committed by a body corporate, partnership or other entity is proved to have been committed with the consent or connivance of or be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or other entity or, in respect of a partnership of a partner, or any person who is purporting to act in any such capacity, he as well as the body corporate, partnership or other entity is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subregulation (1) shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

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Gibraltar Development Corporation

**Subsidiary
1993/188**

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(PRE-OCCUPATIONAL PENSIONS) LEVY REGULATIONS, 1993.**