EXPLANATORY MEMORANDUM TO

THE INDUSTRIAL TRAINING LEVY (CONSTRUCTION INDUSTRY TRAINING BOARD) ORDER 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Baroness Jacqui Smith, Minister for Skills at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

2.2 Jennifer Heigham, Deputy Director for Priority Sector Skills and Sponsorship, at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Caroline Osmond at the Department for Work and Pensions can be contacted by email at the following address with any queries regarding the instrument: caroline.osmond@education.gov.uk. Alternatively, the department can be contacted by telephone: 0800 731 0122.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Industrial Training Levy (Construction Industry Training Board) Order 2026 ("the Levy Order") enables the Construction Industry Training Board ("CITB") to raise and collect a levy on employers in the construction industry.

4.2 The levy funds the expenses of the CITB in carrying out its functions encouraging training in the industry under the Industrial Training Act 1982[1] ("the Act").

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England, Scotland and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Scotland and Wales.

5. Policy Context

What is being done and why?

5.1 Industry training boards ("ITBs") were established in the 1960s across over 20 industries, and the CITB is one of the only 2 ITBs remaining. Both ITBs are classed as Non-Departmental Public Bodies.

[1] https://www.legislation.gov.uk/ukpga/1982/10/section/11

5.2 The purpose of Industry Training Boards (ITBs) (section 1 of the Act) is to make better provision for the training of persons over school age for employment in activities of industry or commerce, with the aim of addressing skills shortages due to market failures within the industry for which it is established. These activities include the provision or approval of courses and facilities for training, reviewing and publishing training recommendations, providing advice connected to training, and paying or making allowances, grants, or loans to employers and training providers.

5.3 Employers in the construction sector have consistently supported statutory underpinning for their training arrangements. There is a fundamental acceptance that incentivising employers in the industry to train their direct and subcontracted workforce to develop a national pool of labour, collectively funded by all in-scope employers, is the only way the industry's skill needs can be met.

5.4 As identified in the Mark Farmer 2023 ITB review[2], there remains a serious and distinct market failure in the development and maintenance of skills in the construction industry: the trading conditions, incentives, and culture do not lead to a sufficient level of investment in skills by employers.

Construction Industry Training Board (CITB) Levy

5.5 The Act provides for a levy to be imposed on employers to finance an ITB's activities. It is for the ITB to make proposals for the rate of levy for the industry the ITB covers and for the Secretary of State to make an order that gives effect to the proposals.

5.6 This Order gives effect to the CITB's proposal for a levy to be imposed in each of the levy periods ending in 2026, 2027 and 2028. Any person who is an employer in the construction industry at any time in a levy period is liable to pay the levy. The levy rates are set out in article 7 of this instrument for different categories of employees. There is no ceiling to the amount of levy paid by an employer which is calculated by reference to the emoluments paid by them to their workers (broadly these are salaries, fees, and wages). The CITB have proposed to continue with the method for assessing the amount of levy used under The Industrial Training Levy (Construction Industry Training Board) Order 2025[3] (the "2025 Levy Order"), which was a one-year Levy Order to allow the Mark Farmer report and the CITB's 2025-29 strategy[4] to be published.

5.7 The amount of levy to be assessed is calculated by reference to the formula in the Order. The levy rate for direct employment will be 0.35%, and the levy rate for indirect employment will be 1.25%. These rates remain the same as the 2022 and 2025 Levy Orders, after the rates were halved in a one-year levy order in 2021 in response to the pandemic. The exemption thresholds for small employers have increased from the 2025 Levy Order to a ceiling of £149,999 to account for increased business costs. This allows smaller firms to access grants and receive support to train their workforce, without needing to contribute. For similar reasons, the reduction threshold has increased to be applied to employers with a wage bill between £150,000 and £499,999. The reduction rate will remain at 50% of levy liability.

5.8 The CITB's proposal involves a levy greater than 0.2% of an employer's relevant emoluments. Consequently, to make this Order, the Secretary of State must be satisfied that the proposals are necessary to encourage adequate training in the industry and that one of three conditions within Section 11(6) is met. Condition (6a) is

[2] https://www.gov.uk/government/publications/2023-industry-training-board-itb-review
[3] https://www.legislation.gov.uk/uksi/2025/525/contents/made
[4] https://www.citb.co.uk/about-citb/what-we-do/plans-and-performance/strategic-plan/

relevant in that (i) the Industry Training Board (ITB) has taken reasonable steps to obtain the views of employers who are likely to be liable to pay the levy; and (ii) these employers agree that the proposals are necessary to encourage adequate training. These employers must be (i) more than half in number of those likely to pay the levy and (ii) likely to pay more than half in value of the total levy to be paid as a result of the Order.

5.9 ITBs can take a range of "reasonable steps" to ascertain the views of employers in one of four ways:

a) By consulting the organisations which represent employers.

b) By consulting the employer organisations and also consulting all other employers who are likely to be liable to pay levy but are not represented by organisations.

c) By consulting the employer organisations and obtaining a sample of the views of other employers who are not represented by organisations.

d) By sampling the views of all employers.

5.10 It is also estimated that under the Construction Industry Training Board's proposals, the levy to be paid by employers in the industry in respect of each levy period exceeds 1% of their relevant emoluments and consequently, the Secretary of State must consider the amount to be paid by employers in the industry appropriate in the circumstances.

What was the previous policy, how is this different?

5.11 The CITB is principally funded by the raising of a levy on employers in the construction industry. It usually submits levy order proposals for a 3-year period after seeking industry approval for the proposals, a process known as 'Consensus'. The CITB carried out Consensus in 2021[5] for the 2022 Levy Order proposals, and 66.5% of the industry, who between them were likely to pay 63.2% of the levy, supported them.

5.12 When the CITB began planning its next Consensus for a 2025-27 levy order, the Department for Education announced a review of ITBs as part of the Cabinet Office review programme of arm's length bodies. Therefore, the CITB submitted a proposal for a one-year levy order without Consensus, which was agreed by Parliament and came into force on 28 April 2025, to allow time for the review recommendations to be considered by ministers.

5.13 These proposals represent a return to three levy periods covering 2026, 2027, and 2028, and Consensus has been achieved, as outlined in Section 7.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 11 of the Act enables an industrial training board to submit proposals to the Secretary of State for the raising and collection of a levy to be imposed for the purpose of meeting the board's expenses. The Order gives effect to levy proposals submitted to the Secretary of State by the CITB.

[5] https://www.citb.co.uk/levy-grants-and-funding/industry-consultation-consensus/consensus-2021/

Why was this approach taken to change the law?

6.2 A levy can only be imposed by way of an Order made under Section 11 of the Act. Therefore, this is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Construction Industry Training Board's (CITB's) Levy Strategy Committee (LSC), a small group of industry representatives, advised on the formation of draft levy proposals, taking into account the external environment and the evolving needs of the industry. Feedback was then sought from Prescribed Organisations (sector federations) and the Nation Councils of England, Scotland and Wales, with the final levy proposals being agreed by the CITB Board in November 2024.

7.2 The CITB carried out its formal consultation of likely levy payers, commonly known as Consensus, between 17 March and 09 May 2025[6]. It used option c) detailed in paragraph 5.9 above and consulted with relevant Prescribed Organisations (POs) and sampled the views of non-represented employers (those who are not members of a PO). The structured sample survey of 4,000 non-represented employers was undertaken by an independent research agency.

7.3 The results show that 12 of the 14 POs support the levy proposals. In total this represents 21.30% of all levy paying employers in the industry and 39.88% of all levy likely to be payable by all employers.

7.4 The results from the sample survey, when applied to the overall number of non-represented employers, indicates the weighted support of 45.91% of all levy payers, that are likely to pay 32.09% of the forecast levy.

7.5 The CITB has therefore demonstrated that its 2026 proposals have the support of the majority of its levy paying employers, with a total of 67.21% of levy payers agreeing the proposals are adequate to encourage training within the industry (an increase of 0.72 percentage points since the last Consensus in 2021), and support from levy payers who in aggregate are likely to pay 71.97% of the levy (an increase of 8.78 percentage points since 2021).

8. Applicable Guidance

8.1 The CITB provides guidance to employers explaining how the levy is assessed and how funding and grants can be claimed. This guidance is available on the CITB's website[7].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the Levy Order is outside the scope of the Better Regulation Framework as it is made in connection with imposing a levy on employers in the industry. However, a non-regulatory economic impact assessment is submitted with this memorandum and

[6] https://www.citb.co.uk/levy-grants-and-funding/industry-consultation-consensus/consensus-2025/
[7] https://www.citb.co.uk/levy-grants-and-funding/citb-levy/about-the-citb-levy/

published alongside the Explanatory Memorandum on the legislation.gov.uk[8] website. The economic impacts of the Order are summarised below.

9.2 Based on information provided by the Construction Industry Training Board (CITB), almost 75,000 construction employers are currently on the CITB levy register, and, excluding newly registered employers and group employers consolidated under one Levy Return, approximately 68,000 of these are assessable for levy.

9.3 The money raised by the levy is used to fund the CITB's functions to support the construction industry to make sure it has the skilled workforce it requires. The CITB also uses levy funds to deliver a range of functions to support skills development, including technical, management and professional training as well as support for apprenticeships and graduates entering industry. For example, in 2024-25, the CITB invested £129.8m to 16k eligible employers in grant-funding, with £60m going directly to 2,400 small and micro businesses, plus supported c30k apprentices and c20k vocational qualification achievements.[9]

9.4 All employers registered with CITB, regardless of whether they are liable to pay levy, can apply for grants towards training.

Impact on businesses, charities and voluntary bodies

9.5 The impact on business, charities or voluntary bodies is as follows:

i. On business – as of December 2025, the CITB forecasts that the 2026 levy order proposals are expected to raise around £243.4m per annum over the 2026, 2027 and 2028 levy periods. The CITB annual report and accounts for 2024-25 showed that the CITB raised £228.1m in levy income. The money raised by the levy is used to benefit the industry. These benefits are comprised of direct returns to employers (provided through the payment of grants, college fees and other training funds allowances) plus indirect returns linked with the provision of trainee recruitment and selection, advice on training, the provision of schemes for recording achievements and the development of industry standards. The CITB also generates income through self-funded commercial activity which helps support its running costs to reduce the burden on the Levy funds, and in 2024-25 the total non-levy income was £52m. In 2024-25, investment back into the industry included £129.8m through the Grants Scheme and £53.4m in other funding schemes. These do not include the costs for direct support to employers by CITB staff.

ii. Charities are exempted from the levy.

9.6 The legislation does impact small or micro businesses.

9.7 To minimise the impact of the requirements on small or micro businesses (employing up to 50 people), the approach taken is determined by the Act, which requires levy proposals to include an exemption for small companies. The exemption level is set according to an employer's total emoluments rather than by the number of employees. This reflects the nature of the industry, where employers make extensive use of subcontractors and may directly employ few people. The 2025 Levy Order set the exemption level at £134,999, and this threshold currently exempts around 62% of the employers in the industry. The 2025 Levy Order also included a taper to reduce the

[8] https://www.legislation.gov.uk/
[9] https://www.gov.uk/government/publications/citb-annual-report-and-accounts-2024-to-2025

impact of levy for employers whose total emoluments fell between £135,000 and £449,999 by offering them a 50% levy reduction.

9.8 This Order increases the exemption level to £149,999 (exempting 69% of employers) and increases the 50% reduction taper for employers with emoluments between £150,000 to £499,999. Circa 10,000 small businesses out of the 68,000 assessable employers will benefit from this levy reduction. To note, the 68,000 assessable employers differ from the 75,000 registered employers for two main reasons a) newly registered employers are not assessed to Levy in the first year; b) group companies often consolidate multiple businesses under one Levy Return.

9.9 Small firms who do not have to pay the levy are, however, eligible to apply for grants towards the cost of training their employees.

9.10 There is no, or no significant, impact on the public sector because the levy is funded from industry and the Construction Industry Training Board (CITB) receives no grant in aid.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through the ITB Sponsorship team within the Department for Work and Pensions.

10.2 The instrument does not include a statutory review clause as it gives effect only for the CITB levy to be collected in relation to levy periods ending in 2026, 2027, and 2028.

10.3 The CITB will need to submit further proposals for the raising and collection of a levy beyond 2028 following industry consultation and approval by the Secretary of State.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister for Skills has made the following statement regarding Human Rights: "In my view the provisions of the Industrial Training Levy (Construction Industry Training Board) Order 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").