STATUTORY INSTRUMENTS

1981 No. 1356

INDUSTRIAL TRAINING

The Industrial Training Levy (Ceramics, Glass and Mineral Products) Order 1981

Made - - - -	17*th September* 1981
Laid before Parliament	29*th September* 1981
Coming into Operation	20*th October* 1981

Whereas proposals made by the Ceramics, Glass and Mineral Products Industry Training Board for the raising and collection of a levy have been submitted to, and approved by, the Manpower Services Commission under section 7 of the Industrial Training Act 1964(**a**) ("the 1964 Act") and have thereafter been submitted by the said Commission to the Secretary of State under section 7(1C) of the 1964 Act;

And whereas in pursuance of section 7(1A)(*a*) of the 1964 Act the said proposals include provision for the exemption from the levy of employers who, in view of the small number of their employees, ought in the opinion of the Secretary of State to be exempted from it;

And whereas the Secretary of State estimates that the amount which, disregarding any exemptions, will be payable by virtue of this Order by any employer in the ceramics, glass and mineral products industry, does not exceed an amount which the Secretary of State estimates is equal to one per cent. of the aggregate of the emoluments and payments intended to be disbursed as emoluments which have been paid or are payable by any such employer to or in respect of persons employed in the industry, in respect of the period specified in the said proposals as relevant, that is to say the period hereafter referred to in this Order as "the fifteenth base period";

And whereas the Secretary of State is satisfied that proposals published by the said Board in pursuance of section 4A of the 1964 Act provide for exemption certificates relating to the levy in such cases as he considers appropriate;

Now, therefore, the Secretary of State in exercise of the powers conferred by section 4 of the 1964 Act and of all other powers enabling him in that behalf hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Industrial Training Levy (Ceramics, Glass and Mineral Products) Order 1981 and shall come into operation on 20th October 1981.

(**a**) 1964 c. 16; the Industrial Training Act 1964 was amended by the Employment and Training Act 1973 (c. 50), section 6 and Part I of Schedule 2. The relevant provisions of the Industrial Training Act, as so amended, are reproduced in the Employment and Training Act 1973, Part II of Schedule 2. The Industrial Training Act 1964 was further amended by the Employment and Training Act 1981 (c. 57); and the relevant amendments are contained in sections 3, 5 and 6 of, and paragraph 5 of Schedule 1 to, that Act.

Interpretation

2.—(1) In this Order unless the context otherwise requires:—

(*a*) "an appeal tribunal" means an industrial tribunal established by regulations made under section 12 of the Industrial Training Act 1964, being regulations which, by virtue of section 128(2) of the Employment Protection (Consolidation) Act 1978(**a**), continue to have effect as if made under section 128(1) of that Act;

(*b*) "assessment" means an assessment of an employer to the levy;

(*c*) "the Board" means the Ceramics, Glass and Mineral Products Industry Training Board;

(*d*) "business" means any activities of industry or commerce;

(*e*) "ceramics, glass and mineral products establishment" means an establishment in Great Britain engaged in the fifteenth base period wholly or mainly in the ceramics, glass and mineral products industry for a total of twenty-seven or more weeks or, being an establishment that commenced to carry on business in the fifteenth base period, for a total number of weeks exceeding one-half of the number of weeks in the part of the said period commencing with the day on which business was commenced and ending on the last day thereof;

(*f*) "the ceramics, glass and mineral products industry" does not include any activities which have been transferred from the industry of the Board to the industry of another industrial training board by one of the transfer orders but save as aforesaid means any one or more of the activities which, subject to the provisions of paragraph 2 of the Schedule to the industrial training order, are specified in paragraph 1 of that Schedule as the activities of the ceramics, glass and mineral products industry or, in relation to activities which have been transferred to the industry of the Board by one of the transfer orders, any activities so transferred;

(*g*) "employer" means a person who is an employer in the ceramics, glass and mineral products industry at any time in the fifteenth levy period;

(*h*) "exemption certificate" means a certificate issued by the Board under section 4B of the 1964 Act;

(*i*) "the fourteenth base period" means the period of twelve months that commenced on 6th April 1979;

(*j*) "the fifteenth base period" means the period of twelve months that commenced on 6th April 1980;

(*k*) "the fifteenth levy period" means the period commencing with the day upon which this Order comes into operation and ending on 31st March 1982;

(*l*) "the industrial training order" means the Industrial Training (Ceramics, Glass and Mineral Products Board) Order 1965(**b**);

(*m*) "the levy" means the levy imposed by the Board in respect of the fifteenth levy period;

(*n*) "notice" means a notice in writing;

(*o*) "the transfer orders" means—

(i) the Industrial Training (Transfer of the Activities of Establish ments) (No. 2) Order 1974(**c**);

(**a**) 1978 c. 44. (**b**) S.I. 1965/1391, amended by S.I. 1969/689.
(**c**) S.I. 1974/1495.

(ii) the Industrial Training (Transfer of the Activities of Establishments) Order 1975(**a**);
(iii) the Industrial Training (Transfer of the Activities of Establishments) Order 1976(**b**);
(iv) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1976(**c**);
(v) the Industrial Training (Transfer of the Activities of Establishments) (No. 3) Order 1976(**d**);
(vi) the Industrial Training (Transfer of the Activities of Establishments) Order 1977(**e**);
(vii) the Industrial Training (Transfer of the Activities of Establishments) Order 1978(**f**);
(viii) the Industrial Training (Transfer of the Activities of Establishments) (No. 3) Order 1978(**g**);
(ix) the Industrial Training (Transfer of the Activities of Establishments) Order 1979(**h**);
(x) the Industrial Training (Transfer of the Activities of Establishments) Order 1980(**i**);
(xi) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1980(**j**); and
(xii) the Industrial Training (Transfer of the Activities of Establishments) Order 1981(**k**).

(2) Any reference in this Order to an establishment that commences to carry on business or that ceases to carry on business shall not be taken to apply where the location of the establishment is changed but its business is continued wholly or mainly at or from the new location, or where the suspension of activities is of a temporary or seasonal nature.

Imposition of the levy

3.—(1) The levy to be imposed by the Board on employers in respect of the fifteenth levy period shall be assessed in accordance with the provisions of this Article and of the Schedule to this Order.

(2) The levy shall be assessed by the Board separately in respect of each relevant establishment (that is to say, each ceramics, glass and mineral products establishment other than one which is exempted by an exemption certificate or one which is an establishment of an employer who is exempted by virtue of paragraph 3 of the Schedule to this Order), but in agreement with the employer one assessment may be made in respect of any number of relevant establishments, in which case those establishments shall be deemed for the purpose of that assessment to constitute one establishment.

Assessment notices

4.—(1) The Board shall serve an assessment notice on every employer assessed to the levy, but one notice may comprise two or more assessments.

(2) An assessment notice shall state the amount of the levy payable by the person assessed to the levy, and that amount shall be equal to the total amount (rounded down where necessary to the nearest £1) of the levy assessed by the Board under this Order in respect of each establishment included in the notice.

(3) An assessment notice shall state the Board's address for the service of a notice of appeal or of an application for an extension of time for appealing.

(**a**) S.I. 1975/434. (**b**) S.I. 1976/396. (**c**) S.I. 1976/1635.
(**d**) S.I. 1976/2110. (**e**) S.I. 1977/1951. (**f**) S.I. 1978/448.
(**g**) S.I. 1978/1643. (**h**) S.I. 1979/793. (**i**) S.I. 1980/586.
(**j**) S.I. 1980/1753. (**k**) S.I. 1981/1041.

(4) An assessment notice may be served on the person assessed to the levy either by delivering it to him personally or by leaving it, or sending it to him by post, at his last known address or place of business in the United Kingdom or, if that person is a corporation, by leaving it, or sending it by post to the corporation, at such address or place of business or at its registered or principal office.

Payment of the levy

5.—(1) Subject to the provisions of this Article and of Articles 6 and 7, the amount of the levy payable under an assessment notice served by the Board shall be due and payable to the Board one month after the date of the notice.

(2) The amount of an assessment shall not be recoverable by the Board until there has expired the time allowed for appealing against the assessment by Article 7(1) of this Order and any further period or periods of time that the Board or an appeal tribunal may have allowed for appealing under paragraph (2) or (3) of that Article, or, where an appeal is brought, until the appeal is decided or withdrawn.

Withdrawal of assessment

6.—(1) The Board may, by a notice served on the person assessed to the levy in the same manner as an assessment notice, withdraw an assessment if that person has appealed against that assessment under the provisions of Article 7 of this Order and the appeal has not been entered in the Register of Appeals kept under the appropriate Regulations specified in paragraph (5) of that Article.

(2) The withdrawal of an assessment shall be without prejudice—

(*a*) to the power of the Board to serve a further assessment notice in respect of any establishment to which that assessment related; or

(*b*) to any other assessment included in the original assessment notice, and such notice shall thereupon have effect as if any assessment withdrawn by the Board had not been included therein.

Appeals

7.—(1) A person assessed to the levy may appeal to an appeal tribunal against the assessment within one month from the date of the service of the assessment notice or within any further period or periods of time that may be allowed by the Board or an appeal tribunal under the following provisions of this Article.

(2) The Board by notice may for good cause allow a person assessed to the levy to appeal to an appeal tribunal against the assessment at any time within the period of four months from the date of the service of the assessment notice or within such further period or periods as the Board may allow before such time as may then be limited for appealing has expired.

(3) If the Board shall not allow an application for extension of time for appealing, an appeal tribunal shall upon application made to the tribunal by the person assessed to the levy have the like powers as the Board under the last foregoing paragraph.

(4) In the case of an establishment that ceases to carry on business in the fifteenth levy period on any day after the date of the service of the relevant assessment notice, the foregoing provisions of this Article shall have effect as if for the period of four months from the date of the service of the assessment notice mentioned in paragraph (2) of this Article there were substituted the period of six months from the date of the cessation of business.

(5) An appeal or an application to an appeal tribunal under this Article shall be made in accordance with the Industrial Tribunals (England and Wales) Regulations 1965(**a**) except where the establishment to which the relevant assessment relates is wholly in Scotland, in which case the appeal or application shall be made in accordance with the Industrial Tribunals (Scotland) Regulations 1965(**b**).

(6) The powers of an appeal tribunal under paragraph (3) of this Article may be exercised by the President of the Industrial Tribunals (England and Wales) or by the President of the Industrial Tribunals (Scotland) as the case may be.

Evidence

8.—(1) Upon the discharge by a person assessed to the levy of his liability under an assessment the Board shall if so requested issue to him a certificate to that effect.

(2) The production in any proceedings of a document purporting to be certified by the Secretary of the Board to be a true copy of an assessment or other notice issued by the Board or purporting to be a certificate such as is mentioned in the foregoing paragraph of this Article shall, unless the contrary is proved, be sufficient evidence of the document and of the facts stated therein.

Signed by order of the Secretary of State.
17th September 1981.

Peter Morrison,
Joint Parliamentary Under Secretary of State,
Department of Employment.

Article 3 SCHEDULE

1.—(1) In this Schedule unless the context otherwise requires—

(*a*) "agriculture" has the same meaning as in section 109(3) of the Agriculture Act 1947(**c**) or, in relation to Scotland, as in section 86(3) of the Agriculture (Scotland) Act 1948(**d**);

(*b*) "the appropriate percentage", in relation to the emoluments of persons employed at or from a ceramics, glass and mineral products establishment, means—

(i) where the establishment was engaged wholly or mainly in any one or more of the activities comprised in one of the two Categories specified in column 1 and column 2 of Appendix 1 to this Schedule, the percentage specified in relation to that Category in column 3 of that Appendix;

(ii) in any other case, the lowest percentage specified in relation to any Category in column 3 of that Appendix which comprises an activity in which the establishment was engaged;

(*c*) "charity" has the same meaning as in section 360 of the Income and Corporation Taxes Act 1970(**e**);

(**a**) S.I. 1965/1101; relevant amending instruments are S.I. 1967/301, 1977/1473.
(**b**) S.I. 1965/1157; relevant amending instruments are S.I. 1967/302, 1977/1474.
(**c**) 1947 c. 48. (**d**) 1948 c. 45. (**e**) 1970 c. 10.

(*d*) "emoluments" means all emoluments assessable to income tax under Schedule E (other than pensions), being emoluments from which tax under that Schedule is deductible, whether or not tax in fact falls to be deducted from any particular payment thereof;

(*e*) "pottery" includes bone china, vitreous china, porcelain, earthenware, wall tiles, sanitary fire clay ware, sanitary earthenware and similar wares;

(*f*) "related or administrative activities" means activities of a kind to which paragraph 1(*o*) of the Schedule to the industrial training order applies;

(*g*) other expressions have the meanings assigned to them respectively by paragraphs 3 or 4 of the Schedule to the industrial training order or by Article 2 of this Order.

(2) The activities in a Category specified in column 1 and column 2 of Appendices 1 and 2 to this Schedule include any related or administrative activities undertaken in relation to any activities comprised in such Category.

(3) In reckoning any sum of emoluments for the purposes of this Schedule no regard shall be had to the emoluments of any person employed as follows:—

(*a*) wholly as a registered dock worker in dock work;

(*b*) wholly in agriculture; or

(*c*) wholly in the supply of food or drink for immediate consumption.

2. Subject to the provisions of this Schedule, the amount of the levy imposed on an employer in respect of a ceramics, glass and mineral products establishment shall be equal to the appropriate percentage of the sum of the emoluments of all the persons employed by the employer in the fifteenth base period at or from the establishment.

3.—(1) There shall be exempt from the levy an employer in whose case the sum of the emoluments of all the persons employed by him in either the fourteenth or fifteenth base period at or from the ceramics, glass and mineral products establishment or establishments of the employer (including any persons employed at or from a ceramics, glass and mineral products establishment by an associated company of the employer) was less than the appropriate minimum amount specified in column 3 of Appendix 2 to this Schedule for the appropriate Category:

Provided that in the case of an employer who was exempt from the levy imposed under the Industrial Training Levy (Ceramics, Glass and Mineral Products) Order 1980(**a**) by reason of paragraph 3(1) of the Schedule to that Order the appropriate minimum amount referred to above shall, in relation to the sum of the emoluments in the fourteenth base period, be that specified in column 4 of Appendix 2 to this Schedule.

(2) A charity shall be exempted from the levy.

(3) In order to determine, in relation to either the fourteenth or fifteenth base period, the appropriate Category for the purposes of sub-paragraph (1) of this paragraph, an establishment shall be taken to fall within that Category specified in column 1 and column 2 of Appendix 2 to this Schedule in which are comprised the ceramics, glass and mineral products activities in which the establishment was wholly or mainly engaged. The appropriate Category is that Category if in the base period the employer had only one establishment and there were no persons employed at or from a ceramics, glass and mineral products establishment by an associated company of the employer. In any other case, the appropriate Category, in relation to either the fourteenth or fifteenth base period, is the one in which the total emoluments of all the persons employed by the employer and any associated company of the employer at establishments falling within that Category was the highest.

4. The amount of the levy imposed in respect of a ceramics, glass and mineral products establishment that ceases to carry on business in the fifteenth levy period shall be the same proportion to the amount that would otherwise be due in accordance with the foregoing provisions of this Schedule as the number of days between the commencement of the said levy period and the date of cessation of business (both dates inclusive) bears to the number of days in the said levy period.

(**a**) S.I. 1980/1372.

APPENDIX 1

Column 1 *Category No.*	*Column 2* *Description of activities*	*Column 3* *Appropriate percentage*
1.	The following activities or any of them— (*a*) the manufacture of glass; (*b*) the manufacture of articles or other products wholly or mainly from glass; (*c*) the calibrating, graduating or toughening of glass or glass articles; (*d*) the milling, grinding or mixing of any material for the purpose of the manufacture of pottery; (*e*) the manufacture of pottery; (*f*) the manufacture, wholly or mainly from plaster, of effigies, models or toys.	0·65
2.	Any activities of the ceramics, glass and mineral products industry, not being activities comprised in Category 1.	0·50

APPENDIX 2

Column 1 *Category No.*	*Column 2* *Description of activities*	*Column 3* *Appropriate minimum amount* £	*Column 4* *Appropriate minimum amount* £
1.	The following activities or any of them— (*a*) the lifting or extracting of mineral deposits or products of minerals from the earth or of mineral deposits from the bed of a lake or river or of the sea; (*b*) the crushing, grinding, washing, drying, grading or screening of sand, gravel or fluorspar; (*c*) the crushing, grinding, washing, drying, foaming, grading, screening, cutting, splitting, dressing, polishing, or mixing of mineral deposits (not being sand, gravel or fluorspar) or products of minerals or any similar operation, being activities carried out— (i) by an employer (or an associated company of the employer, being a company) engaged in any activities specified in sub-paragraph (*a*) of this paragraph; and (ii) on land in or adjacent to a mine or quarry and in conjunction with the operation thereof; (*d*) the burning of limestone or the hydration of lime; (*e*) the production of cement plaster or whiting; (*f*) the production of ready-mixed concrete or ready-mixed mortar or the batching or mixing of ingredients in connection with such production; (*g*) the production of coated material for the purpose of the construction or repair of roads or footways; (*h*) the processing of slag, clinker or breeze; (*i*) the manufacture of articles or other products wholly or mainly from— (i) asbestos cement;	105,000	112,000

APPENDIX 2 (*Continued*)

Column 1 *Category No.*	*Column 2* *Description of activities*	*Column 3* *Appropriate minimum amount* £	*Column 4* *Appropriate minimum amount* £
1. (*contd.*)	(ii) concrete, cast stone, or cement, or from any mixture of aggregate together with a cementing or bonding agent; (iii) plaster, other than the manufacture of effigies, models or toys; (*j*) the manufacture wholly or mainly from concrete and tiles or from stone set in concrete, of fireplaces;		
2.	(*a*) the exfoliation of vermiculite or any similar material; (*b*) the manufacture of— (i) articles consisting mainly of bonded abrasive material or coated with abrasive material; (ii) calcium silicate bricks; (*c*) the manufacture of articles or other products wholly or mainly from— (i) clay or any mixture of clay and calcined or burnt animal bones; (ii) one or more refractory materials; (*d*) the manufacture, wholly or mainly from plaster, of effigies, models or toys; (*e*) the milling, grinding or mixing of any material for the purpose of the manufacture of pottery;	210,000	224,000
3.	(*a*) the manufacture of glass and of articles or other products wholly or mainly from glass; (*b*) the calibrating, graduating or toughening of glass or glass articles.	270,000	291,000

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order, which comes into operation on 20th October 1981, gives effect to the proposals of the Ceramics, Glass and Mineral Products Industry Training Board which were submitted to and approved by the Manpower Services Commission, and thereafter submitted by the Manpower Services Commission to the Secretary of State. The proposals are for the imposition of a levy on employers in the ceramics, glass and mineral products industry for the purpose of encouraging adequate training in the industry.

The levy is to be imposed in respect of the fifteenth levy period commencing with the date upon which this Order comes into operation and ending on 31st March 1982. The levy will be assessed by the Board and there will be a right of appeal against an assessment to an industrial tribunal.

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