STATUTORY INSTRUMENTS

1965 No. 1218

INDUSTRIAL TRAINING

The Industrial Training Levy (Construction Board) Order 1965

Made - - - -	3*rd June* 1965
Laid before Parliament	14*th June* 1965
Coming into Operation	23*rd June* 1965

The Minister of Labour after approving proposals submitted by the Construction Industry Training Board for the imposition of a levy in the construction industry and by virtue of the powers conferred on him by section 4 of the Industrial Training Act 1964(**a**) and of all other powers enabling him in that behalf hereby makes the following Order:—

Title and commencement

1. This Order may be cited as the Industrial Training Levy (Construction Board) Order 1965 and shall come into operation on 23rd June 1965.

Interpretation

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

(*a*) "the appeal tribunal" means an industrial tribunal established under the appropriate Appeal Regulations;

(*b*) "the appropriate Appeal Regulations" means, in relation to an appeal or application for an extension of time for appealing, the Industrial Tribunals (England and Wales) Regulations 1965(**b**), or the Industrial Tribunals (Scotland) Regulations 1965(**c**), according as notice of the appeal or application is given in accordance with Article 7(2) of this Order to the Secretary of the Central Office of the Industrial Tribunals (England and Wales) or of the Central Office of the Industrial Tribunals (Scotland);

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

(*d*) "the Board" means the Construction Industry Training Board;

(*e*) "the construction industry" means the activities specified in Schedule 1 to the Industrial Training (Construction Board) Order 1964(**d**);

(*f*) "emoluments" means any 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;

(*g*) "employer" means an employer in the construction industry;

(*h*) "establishment" means an establishment in Great Britain engaged wholly or mainly in the construction industry for a total of 27 or more weeks in the first base period;

(**a**) 1964 c. 16.
(**b**) S.I. 1965/1101 (1965 II, p. 2805).
(**c**) S.I. 1965/1157 (1965 II, p. 3266).
(**d**) S.I. 1964/1079 (1964 II, p. 2384).

(*i*) " the first base period " means the period of twelve months that commenced on 6th April 1964;

(*j*) " the first levy period " means the period commencing with the date upon which this Order comes into operation and ending on 5th April 1966;

(*k*) " the levy " means the levy imposed by the Board in respect of the first levy period;

(*l*) " the Register of Appeals " means the Register of Industrial Levy Appeals and Decisions kept in accordance with the appropriate Appeal Regulations.

(2) For the purposes of this Order a person employed, at any time in the first base period, in an establishment that is taken over by an employer in succession to some other person (not being a person liable to be assessed to the levy in respect of that establishment) shall, during that time, be deemed to have been in the employment of the first-mentioned employer or, where the establishment has been taken over jointly with some other person, in the joint employment of that employer and that other person.

(3) The Interpretation Act 1889(a) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Imposition of the Levy

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

(2) The levy shall not apply to an employer in whose case the total emoluments paid or payable to persons in his employment in the construction industry in the first base period were less than £5,000 but, save as aforesaid, shall apply to any person who, on the date upon which this Order comes into operation, is an employer or who at any time thereafter in the first levy period becomes an employer.

Assessment of the Levy

4.—(1) The levy shall be assessed by the Board separately in respect of each establishment of an employer, but in agreement with the employer a single assessment may be made in respect of any number of establishments, in which case those establishments shall be deemed for the purposes of that assessment to constitute one establishment.

(2) The amount of the levy imposed in respect of an establishment shall be equal to 0.5 per cent of the total emoluments of the persons employed in that establishment in the first base period by the employer or by a person (not being a person liable to be assessed to the levy in respect of that establishment) from whom the employer has taken over the establishment either in succession to, or jointly with, him.

(3) In reckoning the amount of total emoluments for the purposes of this Article no regard shall be had to the emoluments of any person engaged wholly in the supply of food or drink for immediate consumption.

(a) 52 & 53 Vict. c. 63.

Assessment Notice

5.—(1) The Board shall serve an assessment notice on every employer assessed to the levy, but a single notice may be served in respect of several assessments.

(2) The amount of any assessment payable under an assessment notice shall be rounded down to the nearest £1.

(3) An assessment notice may be served on an employer either by serving it on him personally or by sending it to him by post at his last known address or place of business in the United Kingdom or, if the employer is a company, at the company's registered office.

Effect of Assessment Notice

6.—(1) Subject to the provisions of this and the next following Article of this Order, an assessment notice served by the Board shall, one month from the date of the notice (the date of which shall not be earlier than 1st October 1965), become conclusive as to the liability of the employer to pay the amount of each assessment included therein, and each such amount shall be recoverable by the Board in two equal instalments, of which the first such instalment shall be due one month after the date of the notice and the other after three further months.

(2) The Board may by notice served on the employer withdraw an assessment at any time within which the employer is entitled to appeal against the assessment under the provisions of Article 7 of this Order.

(3) The withdrawal of an assessment shall be without prejudice to the power of the Board to serve a further assessment notice in respect of any establishment to which that assessment related.

(4) Where an extension of time for appealing is allowed by the Board or by the appeal tribunal under the provisions of Article 7 of this Order the periods of one month and three months referred to in paragraph (1) of this Article shall each be extended accordingly.

Appeals

7.—(1) An employer shall be entitled to appeal to the appeal tribunal against an assessment within the period of one month from the date of the relevant assessment notice served by the Board, or within such further period as the Board or the appeal tribunal may allow.

(2) Notice by an employer of an appeal against an assessment or of an application to the appeal tribunal for an extension of time for appealing shall be given in accordance with the appropriate Appeal Regulations—

(*a*) where the establishment to which the assessment relates is wholly in Scotland to the Secretary of the Central Office of the Industrial Tribunals (Scotland); or

(*b*) in any other case to the Secretary of the Central Office of the Industrial Tribunals (England and Wales).

(3) The Board or the appeal tribunal shall not allow an extension of time for appealing against an assessment except for good cause and where application for an extension of time is made to the Board or the tribunal, as the case may be, before the time for appealing has expired.

(4) Where the appeal tribunal confirms or varies an assessment the amount so confirmed or varied shall become due and recoverable by the Board:—

(*a*) if four months or longer have elapsed since the date of the relevant assessment notice, seven days after the date of the entry of the record of the decision of the tribunal in the Register of Appeals; or

(*b*) in any other case, as to one half thereof seven days after the date of the said entry and as to the other half thereof four months after the date of the assessment notice.

Evidence

8.—(1) Upon the discharge by an employer of his liability under an assessment the Board shall if so requested issue to him a certificate in writing to the effect that he has done so.

(2) The production in any proceedings of a document purporting to be certified:—

(*a*) by the Secretary of the Board to be a true copy of an assessment notice or of a certificate such as is mentioned in the foregoing paragraph of this Article; or

(*b*) by the Secretary of the Central Office of the Industrial Tribunals (England and Wales) or of the Central Office of the Industrial Tribunals (Scotland) to be a true copy of an entry in the Register of Appeals;

shall, unless the contrary is proved, be sufficient evidence of the document and of the facts stated therein.

Dated 3rd June 1965.

R. J. Gunter,
Minister of Labour.

EXPLANATORY NOTE

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

This Order gives effect to proposals submitted by the Construction Industry Training Board to the Minister of Labour for the imposition of a levy upon employers in the construction industry for the purpose of raising money towards the expenses of the Board.

The levy is to be imposed in respect of the first levy period commencing with the date upon which this Order comes into operation and ending on 5th April 1966. The levy will be assessed by the Board, and there will be a right of appeal against an assessment to an industrial tribunal.