STATUTORY INSTRUMENTS

1969 No. 1125

INDUSTRIAL TRAINING

The Industrial Training Levy (Construction Board) Order 1969

Made - - - -	*5th August* 1969
Laid before Parliament	14*th August* 1969
Coming into Operation	18*th August* 1969

The Secretary of State after approving proposals submitted by the Construction Industry Training Board for the imposition of a further levy on employers in the construction industry and in exercise of her powers under section 4 of the Industrial Training Act 1964(a) and of all other powers enabling her 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 1969 and shall come into operation on 18th August 1969.

Interpretation

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

(*a*) "an agreement for the performance of labour" means any arrangement, not being a contract of service or of apprenticeship, made between an employer and any other person or persons whereby the services (including any incidental use of tools) of such person or persons, or of any person or persons in his or their employment, are rendered to the first mentioned employer in his trade or business;

(*b*) "an appeal tribunal" means an industrial tribunal established under section 12 of the Industrial Training Act 1964;

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

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

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

(*f*) "construction establishment" means an establishment in Great Britain engaged wholly or mainly in the construction industry for a total of twenty-seven or more weeks in the fifth base period, or, being an establishment that commenced to carry on business in the fifth 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;

(*g*) "the construction industry" 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 construction industry;

(a) 1964 c. 16.

(*h*) "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;

(*i*) "employer" means a person who is an employer in the construction industry at any time in the fifth levy period;

(*j*) "the fifth base period" means the period of twelve months that commenced on 6th April 1968;

(*k*) "the fifth levy period" means the period commencing with the day on which this Order comes into operation and ending on 28th February 1970;

(*l*) "the industrial training order" means the Industrial Training (Construction Board) Order 1967(**a**);

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

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

(2) In the case of a construction establishment that is taken over (whether directly or indirectly) by an employer in succession to, or jointly with, another person, the person or persons carrying on the establishment on the day upon which this Order comes into operation shall, for the purposes of this Order, be deemed—

(*a*) to have been the employer of any person who, at any time in the fifth base period, was employed at or from the establishment under a contract of service or of apprenticeship by the person then carrying on the establishment;

(*b*) to have paid any sums that were paid by any person carrying on the establishment in the fifth base period under an agreement for the performance of labour at or from that establishment.

(3) 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.

(4) The Interpretation Act 1889(**b**) 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 fifth levy period shall be assessed in accordance with the provisions of this Article.

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

(3) Subject to the following provisions of this Article, the amount of the levy imposed on an employer in respect of a construction establishment shall be equal to 0.8 per cent. of—

(*a*) the emoluments of all persons employed under a contract of service or

(**a**) S.I. 1967/924 (1967 II, p.2757). (**b**) 1889 c.63.

of apprenticeship by the employer at or from the establishment in the fifth base period and of any persons of whom the employer is deemed under Article 2(2) of this Order to have been the employer; and

(*b*) all sums paid or deemed under the said Article 2(2) to have been paid by the employer in the said base period to any person (not being an employer in the construction industry) under an agreement for the performance of labour at or from that establishment.

(4) The amount of the levy imposed in respect of a construction establishment that ceases to carry on business in the fifth levy period shall be in the same proportion to the amount that would otherwise be due under the foregoing paragraph 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.

(5) In reckoning the amount of 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.

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

(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.

(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 each assessment appearing in 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 to the power of the Board to serve a further assessment notice in respect of any establishment to which that assessment related.

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 foregoing paragraph.

(4) In the case of an establishment that ceases to carry on business in the fifth 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) as amended by the Industrial Tribunals (England and Wales) (Amendment) Regulations 1967(b) except where the establishment to which the relevant assessment relates is wholly in Scotland, when the appeal or application shall be made in accordance with the Industrial Tribunals (Scotland) Regulations 1965(c) as amended by the Industrial Tribunals (Scotland) (Amendment) Regulations 1967(d).

(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 or any other person, being a member, officer or servant of the Board authorised to act in that behalf, 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.

5th August 1969.

E. Fernyhough,

Joint Parliamentary Under Secretary of State,
Department of Employment and Productivity.

(a) S.I. 1965/1101 (1965 II, p.2805).
(b) S.I. 1967/301 (1967 I, p.1040).
(c) S.I. 1965/1157 (1965 II, p.3266).
(d) S.I. 1967/302 (1967 I, p.1050).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which is made by the Secretary of State for Employment and Productivity, gives effect to proposals submitted by the Construction Industry Training Board for the imposition of a further levy on 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 fifth levy period commencing with the date on which this Order comes into operation and ending on 28th February 1970. The levy will be assessed by the Board, and there will be a right of appeal against an assessment to an industrial tribunal.