STATUTORY INSTRUMENTS

1970 No. 471

INDUSTRIAL TRAINING

The Industrial Training Levy (Construction Board) Order 1970

Made - - - -	19*th March* 1970
Laid before Parliament	2*nd April* 1970
Coming into Operation	15*th April* 1970

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 1970 and shall come into operation on 15th April 1970.

Interpretation

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

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

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

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

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

(*e*) "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 period of twelve months that commenced on 14th September 1968 or, being an establishment that commenced to carry on business in the said 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 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;

(*g*) "employer" (except in paragraph 1(*a*) and 1(*h*) of the Schedule to this Order) means a person who is an employer in the construction industry at any time in the sixth levy period;

(a) 1964 c. 16.

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

(*i*) "the levy" means the levy imposed by the Board in respect of the sixth levy period;

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

(*k*) "the sixth levy period" means the period commencing with the day upon which this Order comes into operation and ending on 28th February 1971.

(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.

(3) 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 sixth 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 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) There shall be exempt from the levy any body established for purposes which are exclusively charitable according to the laws of England and Wales or of Scotland.

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 the provisions of 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.

(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 payable to the Board in two instalments equal to two-fifths and three-

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

fifths of the said amount respectively, and the said instalments shall be due respectively one month and seven months after the date of the notice.

(2) The amount of an instalment mentioned in the last foregoing paragraph may be rounded up or down by the Board to a convenient figure, but so that the aggregate amount of both instalments shall be equal to the amount of the levy stated in the assessment notice in accordance with Article 4(2) of this Order.

(3) An instalment 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 and, where the withdrawal is made by reason of the fact that an establishment has ceased to carry on business in the sixth levy period, the said notice may provide that the whole amount payable thereunder in respect of the establishment shall be due one month after the date of the notice; 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 an 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 sixth 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.

19th March 1970.

Barbara Castle,
First Secretary of State and Secretary of State for Employment and Productivity.

Article 3

SCHEDULE

1. In this Schedule 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, were rendered to the first mentioned employer in his trade or business;

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

(*c*) "apprentice" includes a probationer;

(*d*) "craftsman (general building)" means—

(i) a carpenter joiner, including a carpenter, a joiner bench hand, a sawyer, a wood-cutting machinist, a woodworking machine minder/operator, a sanding machinist, a parquet floor layer and an assembler;

(ii) a formwork erector;

(iii) a bricklayer, including a factory chimney builder;

(iv) a mason, including a stone machine hand, a stone carver, a letter cutter and a stone polisher (hand);

(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).
(e) 1947 c. 48.
(f) 1948 c. 45.

(v) a roofing slater and tiler, including a slater, a tiler, a roofer, a thatcher and a roofing felt fixer;

(vi) a floor, wall and ceiling tiler, including a floor, wall or ceiling tiler, a mosaic cutter, a terrazzo layer, a mastic asphalt spreader, a composition floor layer, a tile slabber and a terrazzo polisher;

(vii) a plasterer;

(viii) a painter, including a house painter and decorator, a french polisher, a red leader, a spray painter and a signwriter;

(ix) a glazier;

(x) a pavior, including an asphalter, a pavior street mason, a tar sprayer, a tar pavior, a road lengthsman, a general road man, a pot man and a road surface laying machine operator; or

(xi) any other person (including a ganger) employed as a manual worker in any of the said trades mentioned in this sub-paragraph but not as a labourer;

(*e*) "craftsman (mechanical and electrical services)" means—

(i) a plumber and gas fitter, including a plumber, a gas fitter, a chemical plumber and a pipe fitter;

(ii) a heating and ventilating engineering craftsman, including a hot water fitter and a heating engineer;

(iii) an electrician, including a cable jointer; or

(iv) any other person employed as a manual worker in any of the said trades mentioned in this sub-paragraph but not as a labourer;

(*f*) "other building and civil engineering worker" means—

(i) a steel bender and fixer;

(ii) a scaffolder;

(iii) a steel erector and sheeter, including a steel erector, a sheeter and an iron roofer;

(iv) a mechanical equipment operator, including a crane driver;

(v) a concrete erector and assembler;

(vi) a yard foreman, a timberman, a tunnel miner, a driller well borer, a pipe layer, a pipe jointer, a hammerman, a demolisher, a foreman welder, a welder, a welder (general hand), a burner cutter, an electric welder, a concreter, a concrete screeder and finisher or a property repairer; or

(vii) any other person (including a ganger) employed as a manual worker in any of the said trades mentioned in this sub-paragraph but not as a labourer;

(*g*) "a person employed in an administrative, professional or technical capacity" includes—

(i) the director of a company (or any person occupying the position of director by whatever name he was called), not being a director remunerated solely by fees;

(ii) a learner or trainee in any such capacity;

but does not include any person who was a manual worker;

(*h*) "the relevant date" in relation to a construction establishment means the day in the week ended 13th September 1969 upon which the persons employed on a weekly basis were paid by the employer or, if no such persons were paid or there was more than one pay day in that week, the 13th September 1969.

2. For the purposes of this Schedule the following provisions shall have effect—

(*a*) a general foreman or a works supervisor, not being a manual worker, shall be treated as a person employed in an administrative, professional or technical capacity, and any other foreman (not being a yard foreman or a foreman welder) or a chargehand shall be treated as a craftsman or other worker of the appropriate description;

(*b*) no regard shall be had to any person employed wholly in the supply of food or drink for immediate consumption or in agriculture;

(*c*) 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 be treated as the employer of any person who, at any time in the period of twelve months that commenced on 6th April 1968 or on the relevant date, was employed, at or from the establishment under a contract of service or of apprenticeship or under an agreement for the performance of labour, by the person then carrying on the establishment.

3. Subject to the provisions of this Schedule, the amount of the levy to be imposed on an employer in respect of a construction establishment shall be determined by reference to the category of each person employed by the employer (whether under a contract of employment or of apprenticeship or, unless such person was an employer in the construction industry, under an agreement for the performance of labour) at or from the establishment on the relevant date, and in respect of each such person of a category and description specified in the first and second columns of the Appendix to this Schedule there shall be payable the appropriate amount specified in the third column of that Appendix.

4.—(1) This paragraph applies in the case where the aggregate amount of—

(*a*) the sum of the emoluments of all the persons employed by the employer at or from the construction establishment or establishments of the employer in the period of twelve months that commenced on 6th April 1968; and

(*b*) all such sums (if any) as were paid in the said period by the employer to any person (not being an employer in the construction industry) under an agreement for the performance of labour at or from the said establishment or establishments;

was less than £15,000.

(2) Where this paragraph applies the amount of the levy determined in accordance with paragraph 3 of this Schedule shall be reduced as follows—

(*a*) where the said aggregate amount was less than £3,000 by 70 per cent.;

(*b*) where the said aggregate amount was not less than £3,000 but was less than £6,000 by 40 per cent.;

(*c*) where the said amount was not less than £6,000 but was less than £15,000 by 25 per cent..

(3) For the purposes of this paragraph "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.

5. The amount of the levy imposed in respect of a construction establishment that ceases to carry on business in the sixth levy period shall be in 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.

APPENDIX

Category	*Description*	*Amount per capita*
1.	A person employed in an administrative, professional or technical capacity.	£41
2.	A craftsman (general building)	£25
2A.	An apprentice craftsman (general building)	£6
3.	Any other building and civil engineering worker, not being an apprentice or of category 6.	£8
3A.	An apprentice (other than an apprentice craftsman (general building) or an apprentice craftsman (mechanical and electrical services)).	£2
4.	A craftsman (mechanical and electrical services) not being of category 6.	£39
4A.	An apprentice craftsman (mechanical and electrical services).	£9
5.	Any other person (not being of category 6) employed at or from a construction establishment.	£8
6.	A person employed under an agreement for the performance of labour.	£25

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 Secretary of State for Employment and Productivity 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 sixth levy period commencing with the date on which this Order comes into operation and ending on 28th February 1971. 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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