STATUTORY INSTRUMENTS

1984 No. 2004

INDUSTRIAL TRAINING

The Industrial Training Levy (Construction Board) Order 1984

Laid before Parliament in draft

Made - - - - 20*th December* 1984

Coming into operation on the fourteenth day after the day on which it is made.

Whereas proposals made by the Construction Industry Training Board for the raising and collection of a levy have been submitted to, and approved by, the Manpower Services Commission under section 11(1) of the Industrial Training Act 1982(a) ("the 1982 Act") and thereafter submitted by the said Commission to the Secretary of State under that subsection;

And whereas in pursuance of section 11(3) of the 1982 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 proposals are made in pursuance of section 11(4)*(b)* of the 1982 Act, and the Secretary of State is satisfied that those proposals falling within section 11(5)*(b)* of the said Act ("the relevant proposals") are necessary as mentioned in the said section 11(5), and that the condition mentioned in section 11(6)*(b)* of the 1982 Act is satisfied in the case of the relevant proposals;

And whereas the following Order falls within section 11(7)*(b)* of the 1982 Act;

And whereas a draft of the following Order was laid before Parliament in accordance with section 12(6) of the 1982 Act and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State in exercise of the powers conferred by sections 11(2), 12(3) and 12(4) of the 1982 Act and of all other powers enabling him in that behalf hereby makes the following Order:—

(a) 1982 c. 10.

Citation and commencement

1. This Order may be cited as the Industrial Training Levy (Construction Board) Order 1984 and shall come into operation on the fourteenth day after the day on which it is made.

Interpretation

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

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

(b) "the Board" means the Construction Industry Training Board;

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

(d) "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 6th April 1983 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;

(e) "the construction industry" does not include any activities of an establishment 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 construction industry or, in relation to an establishment whose activities have been transferred to the industry of the Board by one of the transfer orders, any activities so transferred;

(f) "the twentieth levy period" means the period commencing with the day upon which this Order comes into operation and ending on 31st March 1985;

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

(h) "the industrial training order" means the Industrial Training (Construction Board) Order 1964(**a**);

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

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

(k) "the transfer orders" means—

(i) the Industrial Training (Transfer of the Activities of Establishments) Order 1975(**b**);

(ii) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1975(**c**);

(**a**) S.I. 1964/1079, amended by S.I. 1980/1274, 1982/922.
(**b**) S.I. 1975/434.
(**c**) S.I. 1975/1157.

(iii) the Industrial Training (Transfer of the Activities of Establishments) Order 1976(**a**);

(iv) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1976(**b**);

(v) the Industrial Training (Transfer of the Activities of Establishments) (No. 3) Order 1976(**c**);

(vi) the Industrial Training (Transfer of the Activities of Establishments) Order 1977(**d**);

(vii) the Industrial Training (Transfer of the Activities of Establishments) Order 1978(**e**);

(viii) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1978(**f**);

(ix) the Industrial Training (Transfer of the Activities of Establishments) (No. 3) Order 1978(**g**);

(x) the Industrial Training (Transfer of the Activities of Establishments) Order 1979(**h**);

(xi) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1980(**i**); and

(xii) the Industrial Training (Transfer of the Activities of Establishments) Order 1981(**j**).

(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 twentieth 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.

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.

(**a**) S.I. 1976/396.
(**b**) S.I. 1976/1635.
(**c**) S.I. 1976/2110.
(**d**) S.I. 1977/1951.
(**e**) S.I. 1978/448.
(**f**) S.I. 1978/1225.
(**g**) S.I. 1978/1643.
(**h**) S.I. 1979/793.
(**i**) S.I. 1980/1753.
(**j**) S.I. 1981/1041.

(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 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 due and payable to the Board one month after the date of the assessment 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 industrial 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 industrial 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 industrial 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 industrial 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 industrial 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 twentieth 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 industrial 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, when the appeal or application shall be made in accordance with the Industrial Tribunals (Scotland) Regulations 1965(**b**).

(6) The powers of an industrial 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.

Peter Morrison,
Minister of State,
Department of Employment.

20th December 1984.

(**a**) S.I. 1965/1101, amended by S.I. 1967/301.
(**b**) S.I. 1965/1157, amended by S.I. 1967/302.

Article 3

SCHEDULE

Interpretation

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(**a**) or, in relation to Scotland, as in section 86(3) of the Agriculture (Scotland) Act 1948(**b**);

(b) "average number" in relation to any category and description of persons employed at or from a construction establishment of an employer means the number that is equal to the average of the numbers of the persons of that category and description specified in the first and second columns of the Appendix to this Schedule employed, or treated as employed under the provisions of paragraph 2*(c)* of this Schedule, at or from the establishment by the employer on the relevant dates or, in the case of an establishment that commenced to carry on business after the first of the relevant dates but before the second, the number of persons of that category and description specified as aforesaid and employed by the employer at or from the establishment on the second of the relevant dates;

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

(d) "clerical or miscellaneous worker" includes—

(i) a clerk and other office staff, including those working in sales, computers and stores, and supervisors of these staff;

(ii) a storeman;

(iii) a transport worker (but not a motor mechanic);

(iv) an operative or conversion fitter (excluding a gas fitter, a plumber or a heating and ventilating fitter), engaged in the conversion of appliances to natural gas or in the preliminary work;

(v) a terrazzo worker, including a terrazzo layer;

(vi) any other person (including a foreman, a ganger and a charge-hand) mainly employed as a manual worker not comprised in any other category and description of worker specified in this Schedule or the appendix thereto;

(e) "craftsman (bùilding)" means—

(i) a bricklayer, including a specialist bricklayer;

(ii) a carpenter joiner, including a carpenter, a joiner, a formwork carpenter, a joiner bench hand, a woodworking machinist or woodworking operative and a setter out;

(iii) a mason, including a monumental mason, a stone carver and a stone polisher;

(iv) a mason pavior, including a person involved in cutting and carving stone and who is following or has completed a course of further education being the City and Guilds of London Institute Course No. 588 on Masonry at Craft Level;

(**a**) 1947 c. 48.
(**b**) 1948 c. 45.
(**c**) 1970 c. 10.

(v) a painter, including a painter and decorator, an industrial painter, a french polisher and a signwriter;

(vi) a plasterer, including a solid or fibrous plasterer, a moulder and a dry-lining or partition operative;

(vii) a roof slater and tiler;

(viii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;

(f) "craftsman (mechanical engineering services)" means—

(i) a gas fitter;

(ii) a heating and ventilating fitter, including a heating fitter;

(iii) an oil burner mechanic;

(iv) a pipe fitter;

(v) a plumber, including a chemical plumber, a plumber welder and a hot water fitter;

(vi) a refrigeration mechanic;

(vii) a welder, including an oxy-acetylene, metallic-arc or shielded-arc welder;

(viii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;

(g) "craftsman (electrical engineering services)" means—

(i) an electrician, including a cable jointer;

(ii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;

(h) "craftsman (miscellaneous)" means—

(i) a thermal insulation operative or ductwork erector;

(ii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in either of the trades specified in this sub-paragraph or in any other trade not specified in this Schedule or the appendix thereto;

(i) "specialist building operative" means—

(i) a floor or wall tiler, including a mosaic worker and a tile fixer;

(ii) a ceiling fixer, including a suspended ceiling erector and a metal fixer (ceiling systems);

(iii) a mastic asphalter, including a mastic asphalt spreader;

(iv) a floor coverer, including a parquet floorer and a vinyl, linoleum or carpet layer;

(v) a floorer, including a granolithic or other in situ floor finisher;

(vi) a glazier, including a double glazier, a window fixer, a patent glazier, a leaded light worker and a glass production or processing worker;

(vii) a demountable partition erector;

(viii) a steeplejack, including a lightning conductor erector;

(ix) a demolisher, including a general labourer using a compressed air drill or pneumatic punching machine or spade, a sorter, an improver, a mattockman, a topman, a burner topman, a burner groundsman, a shorer (timber) and a shorer's mate;

(x) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;

(j) "a labour-only agreement" means any agreement, 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 other person or persons were rendered to the employer in his trade or business;

(k) "the relevant dates" means 6th October 1983 and 5th April 1984;

(l) "skilled building and civil engineering worker" means—

(i) a concretor, including a bar bender and fixer, a pre-cast concrete erector and fixer, a pre-stressing or pre-tensioning operative, a concrete placer, vibrator or finisher;

(ii) a diver, including a surface, demand or helmet diver and a life linesman;

(iii) an excavation operative, including a heading driver, a manhole builder, a pipe layer, a pipe jointer and a timberman;

(iv) a mechanical plant operator, including a mechanical equipment, compressor, air tool or paving machine operator, a mixerman, a potman, a banksman, a slinger, a plant driver, a dumper driver, a crane driver, an excavation plant operator, an earthmoving plant operator, a pumpman, an oiler and a greaser;

(v) a piling or well drilling operative, including a borer driver, a vibrator or specialist piling operative, a well or rock driller and a shaft sinker;

(vi) a tunnel miner, including a soft-heading miner;

(vii) a blacksmith, including a marker-out;

(viii) a steel erector;

(ix) a repetitive process factory worker;

(x) a gas distribution mains layer, including a service layer;

(xi) a plant mechanic, including a plant maintenance mechanic, a contractors' plant mechanic and a motor mechanic;

(xii) a tar pavior;

(xiii) a labourer or general operative mainly employed in any of the trades specified in this sub-paragraph or in sub-paragraph *(e), (f), (g), (h), (i) or (n)* of this paragraph who was entitled to extra

payment for skill or responsibility under a Working Rule Agreement;

(xiv) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades mentioned in this sub-paragraph;

(m) "a person employed in a managerial, administrative, professional or technical capacity" includes—

(i) a manager, including a contracts, site, area, sales or office manager;

(ii) an accountant or company secretary;

(iii) an estimator, surveyor or buyer;

(iv) an engineer or architect;

(v) a technical, planning or laboratory assistant, a draughtsman, a tracer or a design detailer;

(vi) a work study officer;

(vii) a personnel officer, a training officer or an instructor;

(viii) a person occupying the position of foreman or of works supervisor being a person who is not mainly employed as a manual worker whether in handling materials or otherwise;

(n) "a roof sheeter or felter" includes—

(i) a roof sheeter and cladder, an asbestos roofer, a galvanised or protected steel sheeter or an aluminium sheeter;

(ii) a roofing felt fixer and a roofing felt layer;

(iii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;

(o) "trainee" means a person (including an apprentice) who is learning a managerial, administrative, professional, technical or manual skill and whose employer has undertaken to provide training for him in that skill for a specified period of not less than twelve months;

(p) "Working Rule Agreement" means any agreement as to pay, being an agreement between—

(i) parties who are or represent employers or organisations of employers or associations of such organisations; and

(ii) parties who are or represent organisations of employees or associations of such organisations;

but includes also any award modifying or supplementing such an agreement.

2. For the purposes of this Schedule, except, in relation to *(c)* below, for the purposes of paragraph 3 below, the following provisions shall have effect—

(a) no regard shall be had to any person employed wholly in the supply of food or drink for immediate consumption or in agriculture or who was normally working for an aggregate of less than 8 hours weekly;

(b) no regard shall be had to a company director remunerated solely by fees but, save as aforesaid, the provisions of this Schedule shall apply to a company director (including a person occupying the position of director by whatever name he is called) as they apply to other persons and accordingly such a person shall be taken to be comprised in the category appropriate to the work in which he was mainly engaged;

(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 was employed on either or both of the relevant dates, or at any time in the period of twelve months that commenced on 6th April 1983 at or from the establishment under a contract of service or of apprenticeship or under a labour-only agreement, by the person then carrying on the establishment;

Basic assessment rules

3.—(1) Subject to the exemptions in paragraphs 4 and 5(1) below, the amount to be assessed by way of levy in respect of a construction establishment, other than a brick-manufacturing establishment, (being an establishment carrying on business in the twentieth levy period) shall be the aggregate of the amount (if any) by which 2% of the labour-only payments exceeds 2% of labour-only receipts and the amount of the occupational levy.

(2) For the purposes of sub-paragraph 3(1) above:—

(a) "2% of labour-only payments" means the sum which (rounded down where necessary to the nearest £1) represents 2% of all payments made to any persons by the employer during the period of 12 months that commenced on 6th April 1983 under labour-only agreements in respect of work carried out at or from the establishment;

(b) "2% of labour-only receipts" means the sum which (rounded down where necessary to the nearest £1) represents 2% of all payments received by the employer during the period of 12 months that commenced on 6th April 1983 from any other employers in the construction industry under labour-only agreements in respect of work carried out at or from the establishment;

(c) "the amount of the occupational levy" means the sum of the amounts (rounded down in each case where necessary to the nearest £1) produced by multiplying the appropriate amount in the third column of the appendix to this Schedule by the average number of persons employed by the employer at or from the establishment under contracts of service or apprenticeship in each relevant category and description of employment less the amount (if any) by which 2% of labour-only receipts exceeds 2% of labour-only payments provided that the amount of the occupational levy shall not exceed an amount equal to 1% of the aggregate of the emoluments and payments intended to be disbursed as emoluments which have been paid or are payable by the employer to or in respect of persons employed in the industry in respect of the period of twelve months which commenced on 6th April 1983.

(3) Subject to the exemptions in paragraphs 4 and 5(2) below, the amount to be assessed by way of levy in respect of a brick-manufacturing establishment

(being an establishment carrying on business in the twentieth levy period) shall be equal to 0.1% of the aggregate of the emoluments and payments intended to be disbursed as emoluments which have been paid or are payable by the employer to or in respect of persons employed at or from the establishment under contracts of service or apprenticeship in respect of the period of 12 months which commenced on 6th April 1983.

(4) For the purposes of this paragraph and paragraph 5 below "a brick-manufacturing establishment" means a construction establishment engaged wholly or mainly in the manufacture of bricks from clay or calcium silicate for building purposes but excluding bricks made for refractory purposes.

Exemption of charities

4. A charity shall be exempt from the levy.

Exemption of small employers

5.—(1) There shall be exempt from the levy an employer in whose case the aggregate amount of—

(a) the sum of the emoluments of all the persons employed at or from the construction establishment or establishments of the employer (not being a brick-manufacturing establishment or brick-manufacturing establishments) in the period of 12 months that commenced on 6th April 1983, and

(b) all such sums (if any) as were paid in the said period by the employer to any person under a labour-only agreement at or from the said establishment or establishments,

was less than £15,000.

(2) There shall be exempt from the levy, in respect of brick-manufacturing establishments, an employer in whose case the sum of the emoluments of all the persons employed at or from the brick-manufacturing establishments of the employer in the period of 12 months that commenced on 6th April 1983 was less than £100,000.

(3) For the purposes of sub-paragraphs (1)*(a)* and (2) above "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.

(4) For the purposes of sub-paragraphs (1) and (2) above, Article 3(2) of this Order shall be disregarded.

Cessation of business

6. The amount of the levy imposed in respect of a construction establishment that ceases to carry on business in the twentieth 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 a managerial, administrative, professional or technical capacity	£42
2.	A clerical or miscellaneous worker	NIL
3.	A craftsman (building)	£71
4.	A craftsman (mechanical engineering services)	£85
5.	A craftsman (electrical engineering services)	£75
6.	A skilled building and civil engineering worker	£25
7.	A labourer or general operative not entitled to extra payment for skill or responsibility under a Working Rule Agreement	£18
8.	A craftsman (miscellaneous)	£20
9.	A specialist building operative	£45
10.	A roof sheeter or felter	£50
11.	A scaffolder	£54
12.	A cavity wall insulation operative, a fencer or fence erector	£30
13.	A trainee in any of the categories 1–6 and 8–12 above	NIL

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order gives effect to proposals of the Construction 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 construction industry for the purpose of raising money towards meeting the expenses of the Board.

A levy is to be imposed on employers limited to 1 per cent of payroll in respect of employees employed by them under contracts of service or apprenticeship and to 2 per cent of payments made by the employers to persons under labour-only agreements.

A levy of 0.1 per cent of payroll is to be imposed on employers with brick-manufacturing establishments in respect of employees employed by them there under contracts of service or of apprenticeship.

This levy is in respect of the twentieth levy period commencing with the date on which this order comes into operation and ending on 31st March 1985.

The levy will be assessed by the Board, and there will be a right of appeal against an assessment to an industrial tribunal.

SI 1984/2004
ISBN 0-11-048004-X

