EXPLANATORY MEMORANDUM TO THE

INDUSTRIAL TRAINING LEVY (CONSTRUCTION BOARD) ORDER 2005

2005 No. 546

1. This explanatory memorandum has been prepared by The Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments and the House of Lords Merits Committee

2. Description

This instrument grants power to the Construction Industry Training Board (CITB) to impose a levy on employers in the Construction Industry and sets the rates of and exemptions from that levy.

3. Matters of special interest to the Committees

None

4. Legislative Background

The above Order is to be made in exercise of the powers conferred by section 11(1) of the Industrial Training Act 1982 (ITA). The Order is subject to affirmative resolution.

5. Extent

This instrument applies to Great Britain.

6. European Convention on Human Rights

The Parliamentary Under Secretary of State for Skills and Vocational Education has made the following statement regarding Human Rights:

In my view the provisions of the Industrial Training Levy (Construction Board) Order 2005 are compatible with the Convention rights

7. Policy background

The purpose of Industrial Training Boards

Industrial Training Boards (ITBs) are set up under the ITA to ensure that the quantity and quality of training are adequate to meet the needs of the industries for which they are established.

There are currently 2 ITBs covering the construction and the engineering construction sectors and both are Non-Departmental Public Bodies. They provide a wide range of services and training initiatives, including setting occupational standards and developing vocational qualifications, delivering Modern Apprenticeships and paying direct grants to employers who carry out training to approved standards.

Employers in these sectors have consistently supported statutory underpinning for their training arrangements. They argue that the nature of their industries mean that individual employers are unable or unwilling to accept the responsibility of training their own employees. They believe that a national pool of labour, collectively funded by all employers, is the only way the industries' skill needs can be met.

Levy Arrangements

The ITA contains provision for a levy on employers to finance an ITB's activities and to share the cost of training more evenly between companies in the industry. It is for the ITB to make proposals for the rate of levy for the industry it covers and for the Secretary of State to make an order giving effect to the proposals.

This Order gives effect to proposals submitted by the Construction ITB (CITB) for a levy to be collected in 2005.

Every employer whose main activity is included in the definition of the construction industry as set out in S.I. 1992/3048 is assessed to levy. Employers are legally required to pay the levy unless they are exempted by the CITB.

Exclusions

The ITA requires small firms to be excluded from the levy but does not set a minimum size threshold. In the Order employers whose combined payroll and net expenditure on sub-contract labour is less than £64,000 are exempt. The exemption is calculated by reference to an employer's payroll figure rather than the number of employees because the numbers employed in any year by any particular employer in this industry, which largely operates on a short-term contract basis with significant usage of labour–only subcontractors, fluctuate and are therefore difficult to calculate or audit, should that be needed.

There is no exemption for other classes of employer.

Costs to the public and/or the Exchequer

Levy rates are determined by the employer members of an ITB and are fixed in light of the Board's general policy and plans. They must cover the cost of the Board's plans for the year in question.

The CITB rates for 2004 are 0.5% of the total of an employer's payroll for direct employees and 1.5% of net payments for labour-only services for construction sites. There is no ceiling to the amount of levy paid by an

employer. The proposals are expected to raise £126 - 130 million in the financial year-ended 31 December 2005.

For each Board the proposals involve a levy greater than 0.2% of an employer's payroll with no provision for exemption. Section 11 of the ITA says that in this case the Secretary of State may not make the Order unless he is satisfied that the proposals are necessary to encourage adequate training in the industry and that one of three conditions is satisfied.

The conditions are:-

(a) that organisations representing more than half the persons likely to pay the levy and organisations representing persons who together are likely to pay more than half the aggregate amount of the levy consider, after taking reasonable steps to consult their members, that the proposals are necessary to encourage adequate training in the industry.

(b) that the Order will be made less than two years after the making of a former levy Order giving effect to proposals in respect of which condition (a) was satisfied.

(c) that neither condition (a) or (b) applies, but the proposals are considered by the Secretary of State to be appropriate in the circumstances.

Formal consultation on the proposals took place in the summer of 2003 and they were supported by the industry's main employer organisations, who represent over 50% of leviable employers. Those employers are together likely to pay 66.8% of the total levy. Condition (a) above has therefore been satisfied.

8. Impact

A Regulatory Impact Assessment is attached to this memorandum

9. Contact

Simon Perryman at the Department for Education and Skills Tel: 0114-259-3913 or e-mail: simon.perryman@dfes.gsi.gov.uk can answer any queries regarding the instrument.