1968. No. 159 **[C]**

INDUSTRIAL TRAINING

Industrial Training Levy (Construction Industry)

ORDER, DATED 9TH JULY 1968, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER THE INDUSTRIAL TRAINING ACT (NORTHERN IRELAND) 1964.

The Ministry of Health and Social Services after approving proposals submitted by the Construction Industry Training Board for the imposition of a levy in the construction industry and in exercise of the powers conferred by section 4 of the Industrial Training Act (Northern Ireland) 1964(a) and of all other powers enabling it in that behalf, hereby makes the following Order:—

Citation and interpretation

1.—(1) This Order may be cited as the Industrial Training Levy (Construction Industry) Order (Northern Ireland) 1968.

(2) In this Order—

"an appeal tribunal" means an industrial tribunal established under section 13 of the Industrial Training Act (Northern Ireland) 1964;

"assessment" means an assessment of an employer to the levy;

"the Board" means the Construction Industry Training Board;

"construction establishment" means an establishment in Northern Ireland engaged wholly or mainly in the construction industry in the fourth base period for a total of 27 or more weeks or, where an election is made, in any part of the alternative fourth base period;

"the construction industry" means any one or more of the activities which, subject to the provisions of paragraph 2 of Schedule 1 to the industrial training order, are specified in paragraph 1 of that Schedule as the activities of the construction industry;

"election" means an election, under the provisions of Article 3(2)(*a*)(ii), by an employer to pay the levy in respect of the emoluments of the persons employed in the relevant establishment during the alternative fourth base period;

"emoluments" means all emoluments assessable to income tax under Schedule E of the Income Tax Act 1952(**b**) (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;

"employer" means an employer in the construction industry at any time in the fourth levy period;

"the fourth base period" means the year that commenced on the 6th April 1967, and "the alternative fourth base period" means the year that commenced on 6th April 1968;

"the fourth levy period" means the period commencing with the day upon which this Order comes into operation and ending on 31st August 1969;

"the industrial training order" means the Industrial Training (Construction Board) Order (Northern Ireland) 1964(**c**);

(a) 1964. c. 18 (N.I.). (**b**) 15 & 16 Geo. 6 and 1 Eliz. 2. c. 10.
(c) S.R. & O. (N.I.) 1964, No. 145 as amended by S.R. & O. (N.I.) 1967, No. 236.

"the levy" means the levy imposed by the Board in respect of the fourth levy period;
"local authority" has the meaning assigned to that expression in paragraph 3 of Schedule 1 to the industrial training order;
"the Ministry" means the Ministry of Health and Social Services;
"notice" means a notice in writing.

Imposition of the Levy

2. The levy to be imposed by the Board on employers in respect of the fourth levy period shall be assessed and paid in accordance with the provisions of this Order.

Assessment of the Levy

3.—(1) The levy shall be assessed by the Board separately in respect of each construction establishment of an employer, not being a local authority, 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.

(2) Subject to the provisions of this Article, the levy assessed in respect of a construction establishment of an employer shall be an amount equal to 1½ per centum of the sum of the emoluments of all the persons following, that is to say—

(*a*) any persons employed by that employer at or from that establishment—
(i) in the fourth base period; or
(ii) where the employer elects in accordance with the provisions of paragraph (4), in the alternative fourth base period; and

(*b*) any persons deemed to have been so employed under the provisions of paragraph (3).

(3) Where a construction establishment is taken over (whether directly or indirectly) by an employer in succession to, or jointly with, another person, a person employed at or from the establishment at any time in the fourth base period or, in any case where an election is made, at any time during that part of the alternative fourth base period which precedes the date upon which an assessment notice is first served under Article 4 shall be deemed, for the purposes of this Article, to have been so employed by the employer carrying on the said establishment on the day upon which this Order comes into operation.

(4) An election shall be made in writing and shall be in such form and made within such period as the Board may with the approval of the Ministry determine.

(5) In the case of a local authority, the levy shall be assessed by the Board separately in respect of each local authority being an employer, and the amount of the levy shall be equal to 1½ per centum of the emoluments of all persons employed by such local authority in the fourth base period or, where an election is made, in the alternative fourth base period.

(6) 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 Notice

4.—(1) Subject to paragraph (2), the Board shall serve an assessment notice on every employer assessed to the levy, but one notice may comprise two or more assessments.

(2) Where an election has been made, the Board may serve two or more assessment notices in respect of any establishment but—

(*a*) the interval between such assessment notices shall be not less than four months, and

(*b*) the amount of the assessment included in each such notice shall not exceed the portion of the levy which has accrued at the date of the notice, and each notice shall specify the period to which the assessment included therein relates.

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

(4) An assessment notice may be served on the employer 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 the employer is a company, at the company's such address or place of business.

Payment of the Levy

5.—(1) Subject to the provisions of this Article and Articles 6 and 7, the amount of each assessment appearing in an assessment notice served by the Board shall be payable to 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 four further months.

(2) In any case where an election has been made, the amount of the assessment included in each assessment notice shall be payable to the Board in one instalment due one month after the date of the notice.

(3) An instalment of an assessment shall not be recoverable by the Board until any time allowed for appealing against the assessment has expired or, where an appeal is brought, until the appeal is decided or withdrawn.

Withdrawal of Assessment

6.—(1) The Board may, by notice served on the employer, withdraw an assessment if that employer has appealed against that assessment under the provisions of Article 7 and the appeal has not been entered in the Register of Appeals kept under the regulations specified in Article 7(4).

(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 the assessment related.

Appeals

7.—(1) An employer 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 paragraphs (2) and (3).

(2) The Board for good cause may, by notice, extend the time within which an appeal may be made by such further period or periods as the Board may allow in any case where an application for such extension is made within the period of four months from the date of the service of the relevant notice of assessment or, where an extension has already been granted, before the period of such extension has expired.

(3) If the Board shall not allow an application for extension of time for appealing an appeal tribunal may, upon application to it by the employer

within the period of fourteen days from the date of receipt of the decision of the Board refusing such an application, extend the period within which an appeal may be made by such further period as the tribunal may allow.

(4) An appeal or an application to an appeal tribunal under this Article shall be made in accordance with the Industrial Tribunals Regulations (Northern Ireland) 1965(**d**).

(5) The powers of an appeal tribunal under paragraph (3) may be exercised by the President of the Industrial Tribunals.

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 by the Secretary of the Board to be a true copy of an assessment or other notice issued by the Board or of a certificate such as is mentioned in paragraph (1) shall, unless the contrary is proved, be sufficient evidence of the document and of the facts stated therein.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 9th day of July 1968.

(L.S.) *W. G. H. Quigley,*
Assistant Secretary.

EXPLANATORY NOTE

(This note is not part of the Order but is intended to indicate its general purport.)

This Order gives effect to proposals submitted by the Construction Industry Training Board to the Ministry of Health and Social Services for the imposition of a 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 fourth levy period commencing with the date upon which the Order comes into operation and ending on 31st August 1969. The levy will be assessed by the Board and there will be a right of appeal against an assessment to an industrial tribunal.

(**d**) S.R. & O. (N.I.) 1965, No. 112 as amended by S.R. & O. (N.I.) 1966, No. 261 and S.R. & O. (N.I.) 1967, No. 109.