1988 No. 181

INDUSTRIAL TRAINING

Industrial Training Levy (Distributive Industry) Order (Northern Ireland) 1988

Made	*17th May 1988*
Coming into operation . .	*28th June 1988*

Whereas proposals made by the Distributive Industry Training Board(**a**) (''the Board'') for the raising and collection of a levy have been submitted to, and approved by, the Department of Economic Development (''the Department'') under Article 23(1) of the Industrial Training (Northern Ireland) Order 1984(**b**) (''the Order of 1984'');

And whereas the Department estimates that the amount which will be payable by any employer in the distributive industry by virtue of this Order does not exceed an amount which the Department estimates is equal to one per cent. of the relevant emoluments being the aggregate of the emoluments and payments intended to be disbursed as emoluments which have been paid or are payable by any such employer to or in respect of persons employed in the industry, in respect of the period specified in the levy proposals as relevant, that is to say the period hereafter referred to in this Order as the ''seventeenth base period'';

And whereas in pursuance of Article 23(3) of the Order of 1984 the said proposals include provision for the exemption from the levy of employers who, in view of the small amount of the relevant emoluments, ought in the opinion of the Department to be exempted from it;

And whereas the Department is satisfied that remission proposals submitted to it by the Board in pursuance of Article 25(1) of the Order 1984 provide for full remission of the remissible part of the levy in such cases as the Department considers appropriate;

And whereas the levy proposals do not include proposals that the amount of the non-remissible part of the levy will exceed two-tenths of one per cent. of the relevant emoluments;

Now, therefore, the Department in exercise of the powers conferred on it by Articles 23(2), (3) and (4) and 24(3) and (4) of the Order of 1984, and of every other power enabling it in that behalf, hereby makes the following Order:—

(**a**) Established under the Distributive Board Order
(**b**) S.I. 1984/1159 (N.I. 9)

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Industrial Training Levy (Distributive Industry) Order (Northern Ireland) 1988 and shall come into operation on 28th June 1988.

(2) In this Order—

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

"business" means any activities of industry or commerce;

"Distributive Board Order" means the Industrial Training (Distributive Board) Order (Northern Ireland) 1969(**a**);

"distributive establishment" means an establishment in Northern Ireland engaged wholly or mainly in the distributive industry for a total of twenty-seven or more weeks in the seventeenth base period, or, being an establishment that commenced to carry on business in the seventeenth 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;

"distributive industry" means any one or more of the activities which, subject to the provisions of paragraph 2 of Schedule 1 to the Distributive Board Order, are specified in paragraph 1 of that Schedule as the activities of the distributive industry;

"dock worker" has the same meaning as in section 6(8) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(**b**);

"emoluments" means all emoluments assessable to income tax under Schedule E (other than pensions)(**c**), 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 a person who is an employer in the distributive industry at any time in the seventeenth levy period;

"levy" means the levy imposed by the Board in respect of the seventeenth levy period;

"notice" means a notice in writing;

"seventeenth base period" means the year that commenced on 6th April 1987;

"seventeenth levy period" means the period commencing with the date upon which this Order comes into operation and ending on 31st March 1989;

(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.

(**a**) S.R. & O. (N.I.) 1969 No. 126 as amended by S.R. & O. (N.I.) 1972 No. 130
(**b**) 1965 c. 19 (N.I.)
(**c**) *See* Section 181 Income and Corporation Taxes Act 1970 c. 10

Imposition and asssessment of the levy for the seventeenth levy period

2.—(1) The levy to be imposed on employers 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 distributive 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 provisions of this Article, the amount of the levy imposed on an employer in respect of a distributive establishment shall be equal to 0·75 per cent. of the relevant emoluments paid and payable to or in respect of all persons employed by the employer at or from that establishment in the seventeenth base period and the part of the levy not to be eligible for remission shall be an amount equal to 0·1875 per cent. of such emoluments.

(4) There shall be exempt from the levy an employer in relation to whom the relevant emoluments paid or payable to or in respect of all persons in his employment in the seventeenth base period are less than £40,000 or in the case of two or more distributive establishments where the relevant emoluments of all the persons employed in all of such establishments are less than £40,000.

(5) The amount of the levy imposed in respect of a distributive establishment that ceases to carry on business in the seventeenth levy period shall be in the same proportion to the amount that would otherwise be due under paragraph (3) 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.

(6) In reckoning the amount of the relevant emoluments for the purpose of this Article no regard shall be had to the emoluments of—

(*a*) any person, who being a registered pharmacist or a registered optician, is employed wholly or mainly in activities undertaken by him personally in the exercise of his profession;

(*b*) any person employed as a member of the crew of an aircraft or as the master or a member of the crew of a ship or any person ordinarily employed as a seaman who is employed in or about a ship in port by the owner or charterer thereof on work of a kind ordinarily done by a seaman on a ship while it is in port;

(*c*) a dock worker employed on dock work;

(*d*) any person employed wholly in the supply of food or drink to persons being a supply—

(i) for immediate consumption;

(ii) of hot fried fish or hot chipped potatoes; or

(iii) by means of an automatic vending machine at or in connection with an hotel, restaurant, cafe, snack bar, canteen, mess room or similar place of refreshment; or

(*e*) any person engaged wholly or mainly in the work of a consultant or valuer in connection with antiques.

Assessment notices

3.—(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 principle office.

Payment of the levy

4.—(1) Subject to the provisions of this Article and of Articles 5 and 6 the amount of each assessment appearing in an assessment notice served by the Board shall be due and payable to the Board in two instalments and the said instalments shall be due respectively on 1st July 1988 and 1st December 1988.

(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 6(1) and any further period of time that the Board or an industrial tribunal may have allowed for appealing under Article 6(2) or (3) or, where an appeal is brought, until the appeal is decided or withdrawn.

Withdrawal of assessment

5.—(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 6 and the appeal has not been entered in the Register of Appeals kept under the regulations specified in Article 6(5).

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

Appeals

6.—(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 of time that may be allowed by the Board or an industrial tribunal under the following provisions of this Article.

(2) The Board for good cause may, by notice, extend the time within which an appeal may be made by such further period 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 industrial tribunal shall upon application to the tribunal by the person assessed to the levy within the period of fourteen days from the date of receipt of the decision of the Board refusing such an application have the like powers as the Board under paragraph (2).

(4) In the case of an establishment that ceases to carry on business in the seventeenth 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) there were substituted the period of six months from the date of the cessation of business.

(5) An application to an industrial tribunal under this Article shall be made in accordance with the Industrial Tribunals Regulations (Northern Ireland) 1965(**a**).

Evidence

7.—(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) For the purpose of proceedings or of any action taken under the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971(**b**), the production of a document purporting to be certified by the Secretary of the Board or any other person, being a member or officer of the Board authorised by the Board 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 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 Department of Economic Development on 17th May 1988.

(L.S.) *P. S. McDonnell*
Assistant Secretary

(**a**) 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
(**b**) 1971 c. 30 (N.I.)

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order gives effect to proposals submitted by the Distributive Industry Training Board to the Department of Economic Development for the imposition of a further levy upon the employers in the distributive industry for the purpose of raising money towards the expenses of the Board.

The levy is to be imposed in respect of the seventeenth levy period, commencing with the date upon which this Order comes into operation and ending on 31st March 1989. The levy will be assessed by the Board and will be payable in two instalments. There will be a right of appeal against an assessment to an industrial tribunal.

The levy rate and that part of the levy which is not eligible for remission, at 0·75% and 0·1875% respectively of relevant emoluments, are unchanged from those operating during the preceding levy period which expired on 31st March 1988 (see Industrial Training Levy (Distributive Industry) Order (Northern Ireland) 1987 S.R. 1987 No. 177).

An employer will be exempt from levy in the seventeenth levy period where the relevant emoluments paid or payable to or in respect of all persons in his employment in the relevant seventeenth base period are less than £40,000.