EXPLANATORY MEMORANDUM TO

THE INDUSTRIAL TRAINING LEVY (ENGINEERING CONSTRUCTION INDUSTRY TRAINING BOARD) ORDER 2026

2026 No. 859

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Baroness Jacqui Smith, Minister for Skills at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

2.2 Anna West, Deputy Director for Priority Sector Skills and Sponsorship at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Caroline Osmond at the Department for Work and Pensions can be contacted by email at the following address with any queries regarding the instrument: caroline.osmond@dwp.gov.uk. Alternatively, the department can be contacted by telephone: 0800 731 0122.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Industrial Training Levy (Engineering Construction Industry Training Board) Order 2026 ("the Levy Order") enables the Engineering Construction Industry Training Board ("ECITB") to raise and collect a levy on employers in the engineering construction industry.

4.2 The levy funds the expenses of the ECITB in carrying out its functions to encourage adequate training in the industry under the Industrial Training Act 1982[1] ("the Act").

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England, Scotland and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Scotland and Wales[2].

[1] https://www.legislation.gov.uk/ukpga/1982/10/section/11

[2] The ECITB also operates across the UK Continental Shelf for oil and gas, and within the 12 nautical mile limit for other engineering construction facilities

5. Policy Context

What is being done and why?

5.1 The ECITB, to which this Order relates, was created in 1964, and re-named the Engineering Construction Industry Training Board in 1991, to ensure the UK has workers with the skills to meet the needs of the engineering construction industry. It is classified as a Non-Departmental Public Body and has been an arm's length body of the Department for Work and Pensions, since September 2025.

5.2 The purpose of Industry Training Boards (ITBs) (section 1 of the Act) is to make better provision for the training of persons over school age for employment in activities of industry or commerce. The aim of the ITBs is to address skills shortages due to market failures within the industry for which it is established. The activities of the ITBs include the provision or approval of courses and facilities for training, reviewing and publishing training recommendations, providing advice connected to training, and paying or making allowances, grants, or loans to employers and training providers.

5.3 Employers in the engineering construction industry have consistently supported a statutory underpinning for their training arrangements. This indicates a high level of consensus that incentivising employers to train their direct and subcontracted workforce, to develop a national pool of labour collectively funded by all in-scope employers, is the most appropriate way to meet the industry's skills needs.

The ECITB Levy

5.4 Section 11 of the Act enables an industrial training board to submit proposals to the Secretary of State for the raising and collection of a levy to be imposed for the purpose of meeting the board's expenses. The Secretary of State then makes an order that gives effect to the proposals submitted by the ITB.

5.5 This Order gives effect to the ECITB's proposal for a levy to be imposed in each of the levy periods ending in 2026, 2027 and 2028. Any person who is an employer in the engineering construction industry at any time in a levy period is liable to pay the levy. The levy rates are set out in 5.6 below for different categories of employees. There is no ceiling to the amount of levy paid by an employer, which is calculated by reference to the emoluments paid by them to their workers (broadly these are salaries, fees, and wages) during an associated base period as set out in the levy proposals.

5.6 The amount of levy to be assessed is calculated by reference to the formula set out in the Order. The ECITB has proposed to continue with the method for assessing the amount of levy used under the Industrial Training Levy (Engineering Construction Industry Training Board) Order 2023[3] (the "2023 Levy Order"). The levy rate for site employees will be maintained at 1.2% of total emoluments, and the levy rate for off-site employees will be maintained at 0.33%. These rates are unchanged from those set out in the 2023 Levy Order.

5.7 The proposals also maintain the existing exemption thresholds from the 2023 Levy Order for small employers. This means an employer is exempt from the levy where payments to on-site employees are less than £275,000, or where payments to off-site employees are less than £1,000,000. These exemption thresholds are kept under regular review by the ECITB, and the most recent review took place in 2025. The on-site exemption threshold of £275,000 equates to the average costs of employing 4

[3] https://www.legislation.gov.uk/uksi/2023/847/contents/made

to 9 full-time equivalent (FTE) site workers over the course of the year. The off-site exemption threshold of £1 million equates to the average costs of employing between 15 to 30 FTE off-site workers, depending on location and the nature of the roles. Despite being exempt from contributing to the levy, such employers remain eligible to claim grants towards the cost of training their workforce.

5.8 The ECITB's proposals involve a levy greater than 0.2% of an employer's relevant emoluments. Consequently, under the requirements of Section 11 of the Act, the Secretary of State must be satisfied that the proposals are necessary to encourage adequate training in the engineering construction industry and that one of three conditions within Section 11(6) of the Act is met. Condition (6)(a) is relevant in that (i) the Industry Training Board (ITB) has taken reasonable steps to obtain the views of employers who are likely to be liable to pay the levy; and (ii) these employers agree that the proposals are necessary to encourage adequate training. These employers must be (i) more than half in number of those likely to pay the levy and (ii) likely to pay more than half in value of the total levy to be paid as a result of the Order.

5.9 ITBs can take a range of "reasonable steps" to ascertain the views of employers in one of four ways:

a) By consulting the organisations which represent employers.

b) By consulting the employer organisations and also consulting all other employers who are likely to be liable to pay levy but are not represented by organisations.

c) By consulting the employer organisations and obtaining a sample of the views of other employers who are not represented by organisations.

d) By sampling the views of all employers.

5.10 It is also estimated that under the Engineering Construction Industry Training Board's proposals, the levy to be paid by employers in the engineering construction industry in respect of each levy period exceeds 1% of their relevant emoluments and, consequently, the Secretary of State must consider the amount to be paid by employers in the industry appropriate in the circumstances.

What was the previous policy, how is this different?

5.11 The ECITB is principally funded by the raising of a levy on employers in the engineering construction industry. It usually submits levy order proposals for a 3-year period after seeking industry approval through appropriate consultation.

5.12 These proposals represent a continuation of the ECITB's established approach to setting levy orders for a 3-year period, following successful statutory consultation with industry, as outlined further in Section 7.

6. Legislative and Legal Context

How has the law changed?

6.1 As detailed in 5.6 and 5.7, the levy rates and exemption thresholds from the previous Order have been maintained and extended for a further three years.

Why was this approach taken to change the law?

6.2 A levy can only be imposed by way of an Order made under Section 11 of the Act and is time limited. A new Order is the only possible approach to make the necessary changes that enable the continued collection of a levy.

7. Consultation

Summary of consultation outcome and methodology

7.1 The ECITB carried out a consultation to ascertain the views of employers in October 2025 in respect of the 2026 levy proposals[4] using option b) of the reasonable steps detailed in 5.9 above.

7.2 It consulted with its two prescribed organisations representing levy-paying employers, the Engineering Construction Industry Association and the British Chemical Engineering Contractors Association, and in writing and at regional forums with employers who are not represented by the prescribed organisations.

7.3 The results showed that both prescribed organisations, who represent 54 levy paying employers in total, and 148 of the 183 unrepresented employers support the proposals.

7.4 This means that 85% of employers, who collectively would pay 98% of the aggregate levy, support the proposals, which is well above the requirement for the proposals to be achieved, as detailed in 5.8 (support from more than half of employers who the Secretary of State considers are likely to be liable to make payments by way of levy).

7.5 Following the consultation with the Scottish Government and consideration of views from the Welsh Government, the Minister for Skills has considered the ECITB proposals, including the employer consultation outcome, and deemed them to be appropriate in the circumstances.

8. Applicable Guidance

8.1 The ECITB provides guidance to employers explaining how the levy is assessed and how funding and grants can be claimed. This guidance is available on the ECITB's website[5].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the Levy Order is outside the scope of the Better Regulation Framework, as it is made in connection with imposing a levy on employers in the industry. However, a non-regulatory economic impact assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk[6] website. The economic impacts of the Order are summarised below.

9.2 Based on information provided by the ECITB, there are currently 283 employers on the ECITB levy register who collectively employ over 80,000 in-scope workers. Of these employers, 234 are expected to pay the levy during the levy periods ending in 2026, 2027 and 2028. The remaining employers fall below the statutory exemption thresholds and will not be liable to pay the levy.

9.3 The levy is expected to raise £137.9 million over the three-year period. The money raised by the levy is used to fund the ECITB's statutory functions to support the engineering construction industry to attract, train and develop a skilled workforce.

[4] https://www.ecitb.org.uk/news/engineering-construction-industry-backs-ecitb-levy-proposals-and-strategy/
[5] https://www.ecitb.org.uk/industrial-training-levy/
[6] https://www.legislation.gov.uk/

9.4 For example, the ECITB's Annual Report and Accounts for 2024[7] show that the ECITB invested £28 million in training grants and new entrant programmes during the year. In 2024, the ECITB supported 2,148 new entrant starts, including 1,132 apprentice starts and 508 graduates. The ECITB also reported 63,888 learners trained or assessed using ECITB-approved products in 2024, including 31,130 learners achieving CCNSG Safety Passports, and supported 2,763 learners through competence-related programmes.

9.5 All employers registered with the ECITB, regardless of whether they are liable to pay the levy, are eligible to apply for grants towards training, subject to the conditions of the ECITB grant schemes.

Impact on businesses, charities and voluntary bodies

9.6 The impact on business, charities or voluntary bodies is as follows:

i. On business, the ECITB estimates that the levy proposals will raise a total of £137.9 million over the levy periods ending in 2026, 2027 and 2028. The costs to industry consist of the levy payments made by employers and the associated administrative costs of completing levy returns and making levy payments. The funds raised are used to support training and skills development across the engineering construction industry. These benefits are comprised of direct returns to employers (provided through the payment of grants, college fees and other training funds allowances) plus indirect returns linked with the provision of trainee recruitment and selection, advice and delivery of training, the provision of schemes for recording achievements, and the development of industry standards. The ECITB also generates income through self-funded commercial activity which helps support its running costs to reduce the burden on the levy funds, and in 2024, the total non-levy income was £2.5 million[8].

ii. Charities are exempt from paying the levy.

9.7 The legislation does impact small or micro businesses.

9.8 To minimise the impact of the requirements on small or micro businesses (employing up to 50 people), the approach taken is determined by the Act which requires levy proposals to include an exemption for small companies. The exemption level is set according to an employer's total emoluments rather than by the number of employees. This reflects the nature of the industry where employers make extensive use of labour-only subcontractors and may directly employ relatively few people.

9.9 As set out in 5.7, under this Order, employers whose gross annual labour emoluments in respect of site workers are below £275,000, or whose emoluments in respect of off-site workers are below £1 million, are exempt from paying the levy. Based on ECITB data, 49 employers (17% of those on the ECITB register) are expected to be exempt from paying the levy as a result of this threshold but are still eligible to apply for support from the ECITB.

9.10 Employers with emoluments above the exemption thresholds will pay a levy that is proportional to their payments.

9.11 There is no, or no significant, negative impact on the public sector because the levy is funded by industry and the ECITB receives no grant-in-aid funding. The public sector,

[7] https://www.gov.uk/government/publications/ecitb-annual-report-and-accounts-2024
[8] https://www.gov.uk/government/publications/ecitb-annual-report-and-accounts-2024 (as per page 40)

however, benefits from the contribution of the ECITB to the shared aim of raising skill levels within the engineering construction workforce.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument does not include a statutory review clause as it gives effect only for the ECITB levy to be collected in relation to levy periods ending in 2026, 2027 and 2028.

10.2 The ECITB will need to submit further proposals for the raising and collection of a levy beyond 2028, or to make amend the proposals within the current Order. These proposals will be assessed in line with the statutory requirements and the views of industry.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister for Skills has made the following statement regarding Human Rights: "In my view, the provisions of the Industrial Training Levy (Engineering Construction Industry Training Board) Order 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").