STATUTORY INSTRUMENTS

1967 No. 1427

INDUSTRIAL TRAINING

The Industrial Training Levy (Engineering) (No. 2) Order 1967

Made - - -	*27th September* 1967
Laid before Parliament	*6th October* 1967
Coming into Operation	*9th October* 1967

The Minister of Labour after approving proposals submitted by the Engineering Industry Training Board for the imposition of a further levy on employers in the engineering industry and by virtue of the powers conferred on him by section 4 of the Industrial Training Act 1964(a) and of all other powers enabling him in that behalf hereby makes the following Order:—

Title and commencement

1. This Order may be cited as the Industrial Training Levy (Engineering) (No. 2) Order 1967 and shall come into operation on 9th October 1967.

Interpretation

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

(*a*) "an appeal tribunal" means an industrial tribunal established under section 12 of the Industrial Training Act 1964;

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

(*c*) "the Board" means the Engineering Industry Training Board;

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

(*e*) "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;

(*f*) "employer" means an employer in the engineering industry;

(*g*) "engineering establishment" means an establishment in Great Britain engaged in the third base period wholly or mainly in the engineering industry for a total of 27 or more weeks or, being an establishment that commenced to carry on business in the third 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;

(*h*) "the engineering industry" 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 engineering industry;

(*i*) "the industrial training order" means the Industrial Training (Engineering Board) Order 1967(b);

(*j*) "the levy" means the levy imposed by the Board in respect of the third levy period;

(a) 1964 c. 16. (b) S.I. 1967/279 (1967 I, p. 999).

(*k*) "local authority" has the meaning assigned to that expression in paragraph 3 of the Schedule to the industrial training order;

(*l*) "notice" means a notice in writing;

(*m*) "the third base period" means the period of twelve months that commenced on 6th April 1967;

(*n*) "the third levy period" means the period commencing on the day upon which this Order comes into operation and ending on 31st August 1968.

(2) A person employed at any time in the third base period at or from an establishment that is taken over (whether directly or indirectly) by an employer in succession to, or jointly with, another employer shall, during that time, be deemed for the purposes of this Order to have been in the employment of the person or persons—

(*a*) carrying on the said establishment on 31st August 1968; or

(*b*) if no person is carrying on the said establishment on the last mentioned day, who last employed any person at or from the said establishment prior to that day.

(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.

(4) The Interpretation Act 1889(a) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Imposition of the Levy

3.—(1) The levy to be imposed by the Board on employers in respect of the third levy period shall be assessed and paid in accordance with the provisions of this Order.

(2) This Order shall not apply to an employer in whose case the amount of the emoluments paid or payable to all persons in his employment in the engineering industry in the third base period is less than £5,000 but, save as aforesaid, shall apply to any person who, on the day upon which this Order comes into operation, is an employer or who at any time thereafter in the third levy period becomes an employer.

Assessment of the Levy

4.—(1) The levy shall be assessed by the Board separately in respect of each engineering establishment of an employer, not being a local authority or the London Transport Board, but in agreement with the employer a single 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 following provisions of this Article, the amount of the levy imposed in respect of an engineering establishment shall be equal to 2.5 per cent. of the emoluments of all persons employed by the employer at or from that establishment in the third base period and of any persons deemed to have been so employed under the provisions of Article 2(2) of this Order.

(3) The amount of the levy imposed in respect of an engineering establishment that ceases to carry on business in the third levy period shall be in the same proportion to the amount that would otherwise be due under the foregoing paragraph as the number of days between the commencement of the said levy

(a) 1889 c. 63.

period and the date of cessation of business (both dates inclusive) bears to the number of days in the said levy period.

(4) The levy shall be assessed by the Board in respect of each local authority, being an employer, and of the London Transport Board, and the amount of the levy shall be equal to 2.5 per cent. of the emoluments of all persons employed in the third base period by the authority or that Board, as the case may be, in the engineering industry.

(5) In reckoning the amount of emoluments 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, or of any person undergoing a course of training as a seagoing officer or rating under an agreement in writing with an employer in the shipping industry or with any organisation of employers in that industry or any association of such organisations.

Assessment Notice

5.—(1) The Board shall serve an assessment notice on every employer assessed to the levy, but a single notice may be served in respect of several 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 an employer 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 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

6.—(1) Subject to the provisions of this Article and of Articles 7 and 8, the amount of each assessment appearing in an assessment notice served by the Board (the date of which shall not be earlier than 31st August 1968) shall be payable by the employer 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 6 further months.

(2) An instalment of an assessment shall not be recoverable by the Board until there has expired the time allowed for appealing against the assessment by Article 8(1) of this Order and any further period or periods of time that the Board or an appeal 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

7.—(1) The Board may, by notice served on the employer in the same manner as an assessment notice, withdraw an assessment if the employer has appealed against that assessment under the provisions of Article 8 of this Order and the appeal has not been entered in the Register of Appeals kept under the appropriate Regulations specified in paragraph (4) of that Article.

(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 or, as the case may be, persons to which that assessment related.

Appeals

8.—(1) A person assessed to the levy 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 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 appeal tribunal against the assessment at any time within the period of 4 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 appeal tribunal shall upon application made to the tribunal by the person assessed to the levy have the like powers as the Board under the foregoing paragraph.

(4) An appeal or an application to an appeal tribunal under this Article shall be made in accordance with the Industrial Tribunals (England and Wales) Regulations 1965(**a**) as amended by the Industrial Tribunals (England and Wales) (Amendment) Regulations 1967(**b**) except where the establishment to which the relevant assessment relates is wholly in Scotland or the employer is a local authority in Scotland in which cases the appeal or application shall be made in accordance with the Industrial Tribunals (Scotland) Regulations 1965(**c**) as amended by the Industrial Tribunals (Scotland) (Amendment) Regulations 1967(**d**).

(5) The powers of an appeal 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.

9.—(1) Upon the discharge by an employer 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.

27th September 1967.

R. J. Gunter,
Minister of Labour.

(a) S.I. 1965/1101 (1965 II, p. 2805).
(b) S.I. 1967/301 (1967 I, p. 1040).
(c) S.I. 1965/1157 (1965 II, p. 3266).
(d) S.I. 1967/302 (1967 I, p. 1050).

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order gives effect to proposals submitted by the Engineering Industry Training Board to the Minister of Labour for the imposition of a further levy upon employers in the engineering industry for the purpose of raising money towards the expenses of the Board.

The levy is to be imposed in respect of the third levy period commencing on the day upon which this Order comes into operation and ending on 31st August 1968. The levy will be assessed by the Board, and there will be a right of appeal against an assessment to an industrial tribunal.