STATUTORY INSTRUMENTS

1972 No. 705

INDUSTRIAL TRAINING

The Industrial Training Levy (Engineering) Order 1972

Made - - -	*3rd May* 1972
Laid before Parliament	*15th May* 1972
Coming into Operation	*1st September* 1972

The Secretary of State after approving proposals submitted by the Engineering Industry Training Board for the imposition of a further levy on employers in the engineering industry and in exercise of his powers under 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) Order 1972 and shall come into operation on 1st September 1972.

Interpretation

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

(*a*) "agriculture" has the same meaning as in section 109(3) of the Agriculture Act 1947(**b**) or, in relation to Scotland, as in section 86(3) of the Agriculture (Scotland) Act 1948(**c**);

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

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

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

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

(*f*) "charity" has the same meaning as in section 360 of the Income and Corporation Taxes Act 1970(**d**);

(*g*) "the eighth base period" means the period of twelve months that commenced on 6th April 1972;

(*h*) "the eighth levy period" means the period commencing with the day upon which this Order comes into operation and ending on 31st August 1973;

(*i*) "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;

(*j*) "employer" (except in Article 2(3) of this Order) means a person who is an employer in the engineering industry at any time in the eighth levy period;

(**a**) 1964 c. 16.
(**b**) 1947 c. 48.
(**c**) 1948 c. 45.
(**d**) 1970 c. 10.

(*k*) "engineering establishment" means an establishment in Great Britain engaged in the eighth base period wholly or mainly in the engineering industry for a total of twenty-seven or more weeks or, being an establishment that commenced to carry on business in the eighth 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, but does not include an establishment in the case of which the sum of the emoluments of all the persons employed in the eighth base period at or from the establishment by the employer carrying on the same is less than £35,000;

(*l*) "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;

(*m*) "establishment" (except in relation to the expressions "engineering establishment" and "foundry establishment") means an establishment that is either an engineering establishment or a foundry establishment;

(*n*) "foundry activities" means the production of iron or steel castings or of non-ferrous castings by casting in moulds made of sand, loam, metal, moulding composition or any other material or mixture of materials and, incidental and subsidiary to the main activity of the production of such castings, any processes to which the casting is subsequently subjected, such as fettling, cleaning, machining, heat treatment, welding, enamelling, plating and other surface finishing and the inspection and testing of castings; the melting, refining and casting of ferrous metal into ingots; the manufacture of refined iron and of chilled iron shot and grit; the production of patterns, moulds or models in wood, metal, plastic, plaster or any combination of those materials, where this activity is carried out for the purpose of the production of iron, steel or non-ferrous castings;

(*o*) "foundry establishment" means an engineering establishment in Great Britain engaged in the eighth base period wholly or mainly in foundry activities for a total of twenty-seven or more weeks or, being an establishment that commenced to carry on business in the eighth 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, but does not include an establishment in the case of which the sum of the emoluments of all the persons employed in the eighth base period at or from the establishment by the employer carrying on the same is less than £25,000;

(*p*) "the industrial training order" means the Industrial Training (Engineering Board) Order 1971(**a**);

(*q*) "the levy" means the levy imposed by the Board in respect of the eighth levy period;

(*r*) "notice" means a notice in writing.

(2) In the case where an establishment is taken over (whether directly or indirectly) by an employer in succession to, or jointly with, another person, a person who was employed at any time in the eighth base period at or from the establishment shall be deemed, for the purposes of this Order, to

(**a**) S.I. 1971/1530 (1971 III, p. 4309).

have been so employed by the employer carrying on the said establishment on 31st August 1973, and any reference in this Order to persons employed by an employer in the eighth base period at or from an establishment shall, subject to the provisions of Article 8, be construed accordingly.

(3) In reckoning the amount of emoluments for the purposes of this Order no regard shall be had to the emoluments of any person—

(*a*) 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 with any association of such organisations;

(*b*) employed by the London Transport Executive wholly in activities specified in paragraph 1(*l*) of the Schedule to the industrial training order, not being design or drawing or the training of employees or apprentices;

(*c*) engaged wholly in agriculture; or

(*d*) engaged wholly in the supply of food or drink for immediate consumption.

(4) 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.

(5) 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) Subject to the provisions of Article 8 of this Order, the levy to be imposed by the Board on employers in respect of the eighth levy period 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 establishment of an employer, not being a charity, but in agreement with the employer one assessment may be made in respect of any number of engineering establishments, in which case such establishments shall be deemed for the purpose of that assessment to constitute one establishment.

(3) The levy assessed in respect of an engineering establishment of an employer shall be—

(*a*) in the case of a foundry establishment, an amount equal to 2·0 per cent. of the sum of the emoluments of all the persons employed in the eighth base period at or from the establishment by the employer;

(*b*) in any other case, an amount equal to 2·0 per cent. of the sum (less £35,000) of the emoluments of all the persons employed in the eighth base period at or from the establishment by the employer.

(4) A charity shall be exempt from the levy.

Assessment notices

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

(**a**) 1889 c. 63.

(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 principal office.

Payment of the levy

5.—(1) Subject to the following provisions of this Order, 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 1973) shall be payable by the employer to the Board in two equal instalments, and the said instalments shall be due respectively one month and seven months after the date of the notice.

(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 7(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

6.—(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 7 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 to which that assessment related.

Appeals

7.—(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 four 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 last 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 in which case 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.

Cessation of business

8.—(1) The provisions of this Article shall apply in relation to an establishment that ceases to carry on business in the eighth levy period on or before 30th August 1973.

(2) Article 2(1)(*g*) of this Order shall have effect as if the following definition were substituted for the definition of "the eighth base period"—

> " 'the eighth base period' means the period commencing on 6th April 1972 and ending on the day upon which the establishment ceases to carry on business or on the 5th April 1973 whichever day shall be the earlier;".

(3) Article 2(2) of this Order shall have effect as if for the words "the employer carrying on the said establishment on 31st August 1973" there were substituted the words "the employer who last carried on business at or from the said establishment".

(4) The amount of the levy imposed in respect of the establishment shall be in the same proportion to the amount that would otherwise be due under the provisions of Article 3 of this Order as the number of days between the commencement of the eighth levy period and the date of cessation of business (both dates inclusive) bears to the number of days in the said levy period.

(5) Article 5(1) of this Order shall have effect as if the words in parenthesis were omitted.

Evidence

9.—(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) 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.

(**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).

Signed by order of the Secretary of State.

3rd May 1972.

Dudley Smith,
Parliamentary Under Secretary of State,
Department of Employment.

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 Secretary of State for Employment 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 eighth levy period commencing on the day upon which this Order comes into operation and ending on 31st August 1973. The levy will be assessed by the Board and there will be a right of appeal against an assessment to an industrial tribunal.

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