STATUTORY INSTRUMENTS

1968 No. 921

INDUSTRIAL TRAINING

The Industrial Training Levy (Hotel and Catering) Order 1968

Made - - -	10*th June* 1968
Laid before Parliament	21*st June* 1968
Coming into Operation	10*th July* 1968

The Secretary of State after approving proposals submitted by the Hotel and Catering Industry Training Board for the imposition of a further levy on employers in the hotel and catering industry and in exercise of her powers under section 4 of the Industrial Training Act 1964(**a**) and of all other powers enabling her in that behalf hereby makes the following Order :—

Title and commencement

1. This Order may be cited as the Industrial Training Levy (Hotel and Catering) Order 1968 and shall come into operation on 10th July 1968.

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 Hotel and Catering Industry Training Board ;

(*d*) "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 ;

(*e*) "employer" means a person who is an employer in the hotel and catering industry at any time in the second levy period, but does not include a person in whose case the sum of the emoluments paid or payable to all persons in, or deemed under the provisions of this Article to have been in, his employment in the said industry in the second base period, is less than £4,000 ;

(*f*) "establishment" (except in sub-paragraph (*h*) of this paragraph) means an establishment comprising catering activities or a hotel and catering establishment ;

(*g*) "establishment comprising catering activities" means an establishment in Great Britain (not being a hotel and catering establishment) at or from which persons were employed in the second base period—

(i) in the supply in the course of any business of food or drink to persons for immediate consumption ; or

(ii) in the supply by any body of persons of food or drink to persons in their employment for immediate consumption ;

(**a**) 1964 c.16.

(*h*) "hotel and catering establishment" means an establishment in Great Britain that was engaged in the second base period wholly or mainly in the hotel and catering industry;

(*i*) "hotel and catering 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 hotel and catering industry;

(*j*) "the industrial training order" means the Industrial Training (Hotel and Catering Board) Order 1966(**a**);

(*k*) "the levy" means the levy imposed by the Board in respect of the second levy period;

(*l*) "marketing board" means the Aberdeen and District Milk Marketing Board, the British Egg Marketing Board, the British Wool Marketing Board, the Hops Marketing Board, the Milk Marketing Board, the North of Scotland Milk Marketing Board, the Potato Marketing Board or the Scottish Milk Marketing Board;

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

(*n*) "the second base period" means the period of twelve months that commenced on 6th April, 1967;

(*o*) "the second levy period" means the period commencing with the day upon which this Order comes into operation and ending on 31st March 1969;

(*p*) other expressions have the same meaning as in the industrial training order.

(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 employed at any time in the second base period at or from the establishment shall be deemed, for the purposes of this Order, to have been so employed by the employer carrying on the said establishment on the day upon which this Order comes into operation.

(3) Any reference in this Order to an establishment 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(**b**) 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 second levy period shall be assessed in accordance with the provisions of this and the next following Article.

(2) Subject to the provisions of the next following Article, the levy shall be assessed by the Board separately in respect of each establishment of an employer, but in agreement with the employer one assessment may be made in respect of any number of hotel and catering establishments or of establishments comprising catering activities, in which case such establishments shall be deemed for the purposes of the assessment to constitute one establishment.

(**a**) S.I. 1966/1347 (1966 III, p.3669). (**b**) 1889 c.63.

Assessment of the Levy

4.—(1) Subject to the provisions of this Article, the levy assessed in respect of an establishment shall be an amount equal to one per cent. of the sum of the emoluments of the following persons, being persons employed, or deemed under the provisions of Article 2(2) of this Order to have been employed, by the employer at or from the establishment in the second base period, that is to say—

(*a*) in the case of a hotel and catering establishment, all such persons;

(*b*) in the case of an establishment comprising catering activities, all such persons employed wholly or mainly either in the supply in the course of any business of food or drink to persons for immediate consumption or in the supply by any body of persons of food or drink to persons in their employment for immediate consumption.

(2) In the case of one establishment only of an employer, the sum of the emoluments determined in accordance with the foregoing paragraph shall be treated for the purposes of the assessment of the levy in respect of that establishment as if that sum were reduced by £2,000.

(3) For the purposes of the application of the provisions of the foregoing paragraph, the Board shall, if necessary—

(*a*) select the establishment in relation to which the provisions of the said paragraph are to apply; or

(*b*) aggregate the sum total of the emoluments of any two or more establishments of the employer (each sum first being determined separately in accordance with paragraph (1) of this Article) in which case the said establishments shall be deemed for the purposes of the assessment thereof to constitute one establishment.

(4) The amount of the levy imposed in respect of an establishment that ceases to carry on business in the second levy period shall be in the same proportion to the amount that would otherwise be due under the foregoing provisions of this Article 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.

(5) For the purposes of this Article, no regard shall be had to the emoluments of any person employed as follows—

(*a*) wholly in the supply (except at or in connection with a restaurant, café, snack bar, canteen, mess room or similar place of refreshment) of—

(i) ice cream, chocolate confectionery, sugar confectionery or soft drink;

(ii) shellfish or eels; or

(iii) food or drink by means of an automatic vending machine;

(*b*) otherwise than wholly in the supply of food or drink for immediate consumption, where the employment is at or from an establishment engaged mainly in any activities included in an industry specified in column 1 of the Schedule to this Order by virtue of the relevant industrial training order specified in column 2 of that Schedule or in any activities of two or more such industries;

(*c*) as the captain or a member of the crew of an aircraft, or as the master or a member of the crew of a ship or vessel or, in the case of a person

ordinarily employed as a seaman, in or about a ship or vessel in port by the owner or charterer thereof on work of a kind ordinarily done by a seaman on a ship or vessel while it is in port;

(*d*) by a local authority in any activities mentioned in paragraph 1(*d*) or 1(*e*) of Schedule 1 to the industrial training order, not being activities mentioned in head (ii) or head (iv) of paragraph 3(*m*) of that Schedule; or

(*e*) in any activities mentioned in paragraph 1(*c*), 1(*d*), or 1(*e*) of Schedule 1 to the industrial training order when carried out by—

(i) a harbour authority within the meaning of the Harbours Act 1964(**a**) while acting in that capacity;

(ii) the Electricity Council, the Central Electricity Generating Board or an Area Electricity Board;

(iii) the North of Scotland Hydro-Electric Board or the South of Scotland Electricity Board;

(iv) the Gas Council or an Area Gas Board;

(v) statutory water undertakers within the meaning of the Water Act 1945(**b**) or regional water boards or water development boards within the meaning of the Water (Scotland) Act 1967(**c**), being the activities of such undertakers or boards in the exercise of their powers or duties as such;

(vi) the British Airports Authority, the British European Airways Corporation, the British Overseas Airways Corporation, BEA Helicopters Limited or B.O.A.C. Associated Companies Limited;

(vii) the Home-Grown Cereals Authority;

(viii) a marketing board; or

(ix) the United Kingdom Atomic Energy Authority.

Assessment Notices

5.—(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 1d.

(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

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 shall be due and payable to the Board one month after the date of the notice.

(**a**) 1964 c. 40. (**b**) 1945 c. 42. (**c**) 1967 c. 78.

(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 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 a notice served on the person assessed to the levy in the same manner as an assessment notice, withdraw an assessment notice if that person has appealed against an assessment contained therein 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 (5) of that Article, and such withdrawal shall apply to each assessment appearing in the assessment notice.

(2) The withdrawal of an assessment notice shall be without prejudice to the power of the Board to serve a further assessment notice in respect of any establishment to which the first mentioned notice 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 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 foregoing paragraph.

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

(5) 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**).

(6) 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.

(**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).

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 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.

Signed by order of the Secretary of State.
10th June 1968.

Roy Hattersley,
Joint Parliamentary Under Secretary of State,
Department of Employment and Productivity.

SCHEDULE

THE INDUSTRIES REFERRED TO IN ARTICLE 4(5)(*b*) OF THIS ORDER

Column 1	Column 2
The wool, jute and flax industry.	The Industrial Training (Wool Industry Board) Order 1964 as amended by the Industrial Training (Wool, Jute and Flax Board) Order 1968(a).
The iron and steel industry.	The Industrial Training (Iron and Steel Board) Order 1964(b).
The construction industry.	The Industrial Training (Construction Board) Order 1964 as amended by the Industrial Training (Construction Board) Order 1967(c).
The engineering industry.	The Industrial Training (Engineering Board) Order 1964 as amended by the Industrial Training (Engineering Board) Order 1967(d).
The shipbuilding industry.	The Industrial Training (Shipbuilding Board) Order 1964(e).
The electricity supply industry.	The Industrial Training (Electricity Supply Board) Order 1965(f).
The gas industry.	The Industrial Training (Gas Industry Board) Order 1965(g).
The water supply industry.	The Industrial Training (Water Supply Board) Order 1965(h).
The ceramics, glass and mineral products industry.	The Industrial Training (Ceramics, Glass and Mineral Products Board) Order 1965(i).
The furniture and timber industry.	The Industrial Training (Furniture and Timber Industry Board) Order 1965(j).
The man-made fibres producing industry.	The Industrial Training (Man-made Fibres Producing Industry Board) Order 1966(k).
The carpet industry.	The Industrial Training (Carpet Board) Order 1966(l).
The knitting, lace and net industry.	The Industrial Training (Knitting, Lace and Net Industry Board) Order 1966(m).
The cotton and allied textiles industry.	The Industrial Training (Cotton and Allied Textiles Board) Order 1966(n).
The agricultural, horticultural and forestry industry.	The Industrial Training (Agricultural, Horticultural and Forestry Board) Order 1966(o).
The road transport industry.	The Industrial Training (Road Transport Board) Order 1966(p).

(a) S.I. 1964/907, 1968/898 (1964 II, p.1928; 1968 II, p. 2376).
(b) S.I. 1964/949 (1964 II, p.2127).
(c) S.I. 1964/1079, 1967/924 (1964 II, p.2384 ;1967 II, p.2757).
(d) S.I. 1964/1086, 1967/279 (1964 II, p.2402; 1967 I, p.999).
(e) S.I. 1964/1782 (1964 III, p.3928).
(f) S.I. 1965/1256 (1965 II, p.3548).
(g) S.I. 1965/1257 (1965 II, p.3552).
(h) S.I. 1965/1258 (1965 II, p.3556).
(i) S.I. 1965/1391 (1965 II, p.4062).
(j) S.I. 1965/2028 (1965 III, p.5998).
(k) S.I. 1966/143 (1966 I, p.257).
(l) S.I. 1966/245 (1966 I, p.499).
(m) S.I. 1966/246 (1966 I, p.506).
(n) S.I. 1966/823 (1966 II, p. 1907).
(o) S.I. 1966/969 (1966 II, p.2333).
(p) S.I. 1966/1112 (1966 III, p.2712).

SCHEDULE—continued

Column 1	Column 2
The civil air transport industry.	The Industrial Training (Civil Air Transport Board) Order 1967(a).
The petroleum industry.	The Industrial Training (Petroleum Board) Order 1967(b).
The rubber and plastics processing industry.	The Industrial Training (Rubber and Plastics Processing Board) Order 1967(c).
The chemical and allied products industry.	The Industrial Training (Chemical and Allied Products Board) Order 1967(d).
The printing and publishing industry.	The Industrial Training (Printing and Publishing Board) Order 1968(e).
The paper and paper products industry.	The Industrial Training (Paper and Paper Products Board) Order 1968(f).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which is made by the Secretary of State for Employment and Productivity, gives effect to proposals submitted by the Hotel and Catering Industry Training Board for the imposition of a further levy upon employers in the hotel and catering industry for the purpose of raising money towards the expenses of the Board.

The levy is to be imposed in respect of the second levy period commencing with the day upon which this Order comes into operation and ending on 31st March 1969. The levy will be assessed by the Board and there will be a right of appeal against an assessment to an industrial tribunal.

(a) S.I. 1967/263 (1967 I, p.968).
(b) S.I. 1967/648 (1967 I, p.2032).
(c) S.I. 1967/1062 (1967 II, p.3151).
(d) S.I. 1967/1386 (1967 III, p.4049).
(e) S.I. 1968/786 (1968 II, p.2185).
(f) S.I. 1968/787 (1968 II, p.2194).