STATUTORY INSTRUMENTS

1982 No. 820

INDUSTRIAL TRAINING

The Industrial Training Levy (Hotel and Catering) Order 1982

Made - - - -	15*th June* 1982
Laid before Parliament	25*th June* 1982
Coming into Operation	19*th July* 1982

Whereas proposals made by the Hotel and Catering Industry Training Board for the raising and collection of a levy have been submitted to, and approved by, the Manpower Services Commission under section 7 of the Industrial Training Act 1964 (a) ("the 1964 Act") and have thereafter been submitted by the said Commission to the Secretary of State under section 7(1C) of the 1964 Act;

And whereas in pursuance of section 7(1A)(*a*) of the 1964 Act the said proposals include provision for the exemption from the levy of employers who, in view of the small number of their employees, ought in the opinion of the Secretary of State to be exempted from it;

And whereas the Secretary of State estimates that the amount which, disregarding any exemptions, will be payable by virtue of this Order by any employer in the hotel and catering industry, does not exceed an amount which the Secretary of State 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 said proposals as relevant, that is to say the period hereafter referred to in this Order as "the sixteenth base period";

And whereas the Secretary of State is satisfied that proposals published by the said Board in pursuance of section 4A of the 1964 Act provide for exemption certificates relating to the levy in such cases as he considers appropriate;

Now, therefore, the Secretary of State in exercise of the powers conferred on

(a) 1964 c. 16; the Industrial Training Act 1964 was amended by the Employment and Training Act 1973 (c. 50), section 6 and Part I of Schedule 2. The relevant provisions of the Industrial Training Act 1964, as so amended, are reproduced in the Employment and Training Act 1973, Part II of Schedule 2. The Industrial Training Act 1964 was further amended by the Employment and Training Act 1981 (c. 57); and the relevant amendments are contained in sections 3, 5 and 6 of, and paragraph 5 of Schedule 1 to, that Act.

him by section 4 of the 1964 Act and of all other powers enabling him in that behalf hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Industrial Training Levy (Hotel and Catering) Order 1982 and shall come into operation on 19th July 1982.

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(**a**) or, in relation to Scotland, as in section 86(3) of the Agriculture (Scotland) Act 1948(**b**);

(b) "an appeal tribunal" means an industrial tribunal established by regulations made under section 12 of the Industrial Training Act 1964, being regulations which, by virtue of section 128(2) of the Employment Protection (Consolidation) Act 1978(**c**), continue to have effect as if made under section 128(1) of that Act;

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

(d) "the Board" means the Hotel and Catering Industry Training Board;

(e) "British Airways Group" means the British Airways Board, and all subsidiaries and joint subsidiaries, and "member of the British Airways Group" shall be construed accordingly;

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

(g) "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;

(h) "employer" means a person who is an employer in the hotel and catering industry at any time in the sixteenth levy period;

(i) "establishment" (except in sub-paragraphs *(j)* and *(l)* of this paragraph) means an establishment comprising catering activities or a hotel and catering establishment;

(j) "establishment comprising catering activities" means an establishment in Great Britain at or from which persons were employed in the sixteenth base period in the supply of food or drink to persons for immediate consumption, but does not include:—

(i) a hotel and catering establishment; or

(ii) an establishment in which the employer supplied for immediate consumption light refreshments to persons employed at or from the same where the employer was not otherwise engaged at or from the

(**a**) 1947 c. 48.
(**b**) 1948 c. 45.
(**c**) 1978 c. 44.
(**d**) 1970 c. 10.

establishment in any activities to which paragraph 1 of the Schedule to the industrial training order applies or in the manufacture of any chocolate or flour confectionery so supplied as light refreshments;

(k) "exemption certificate" means a certificate issued by the Board under section 4B of the 1964 Act;

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

(m) "hotel and catering industry" does not include any activities of an establishment which has been transferred from the industry of the Board to the industry of another industrial training board by one of the transfer orders but save as aforesaid 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 hotel and catering industry or, in relation to an establishment whose activities have been transferred to the industry of the Board by one of the transfer orders, any activities so transferred;

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

(o) "the levy" means the levy imposed by the Board in respect of the sixteenth levy period;

(p) "notice" means a notice in writing;

(q) "the sixteenth base period" means the period of twelve months that commenced on 6th April 1981;

(r) "the sixteenth levy period" means the period commencing with the day upon which this Order comes into operation and ending on 31st March 1983;

(s) "subsidiary" and "joint subsidiary" have the same meanings as in section 60(1) of the Civil Aviation Act 1971(**b**);

(t) "the supply of food or drink to persons for immediate consumption" means such a supply either by way of business or by a person carrying on a business to persons employed in the business;

(u) "the transfer orders" means:—

(i) the Industrial Training (Transfer of the Activities of Establishments) Order 1980(**c**);

(ii) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1980(**d**);

(v) other expressions have the same meanings as in the industrial training order.

(2) 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

(**a**) S.I. 1966/1347, amended by S.I. 1969/1405.
(**b**) 1971 c. 75.
(**c**) S.I. 1980/586.
(**d**) S.I. 1980/1753.

location, or where the suspension of activities is of a temporary or seasonal nature.

Imposition of the levy

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

(2) Subject to the provisions of this Article and of Article 4 below, the levy shall be assessed by the Board in respect of each employer and the amount thereof shall be equal to 1 per cent. of the sum of the emoluments of all persons to whom paragraph (3) below applies employed by the employer in the sixteenth base period at relevant establishments of his (that is to say, any hotel and catering establishment or establishments, or any establishment or establishments comprising catering activities other than any establishment in respect of which an exemption certificate has been issued to the employer, or one which is an establishment of an employer who is exempt from the levy by virtue of paragraph (4) of this Article).

(3) This paragraph applies to:—

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

(b) in the case of an establishment comprising catering activities, all persons employed wholly or mainly in the supply of food or drink to persons for immediate consumption.

(4) There shall be exempt from the levy:—

(a) an employer in whose case the sum of the emoluments of all the persons employed by him in the sixteenth base period in the hotel and catering industry at or from the establishment or establishments of the employer was less than £110,000;

(b) a charity.

(5) The amount of the levy imposed in respect of an establishment that ceases to carry on business in the sixteenth 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.

(6) 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 an hotel, 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) wholly in agriculture;

(c) otherwise than wholly in the supply of food or drink to persons for

immediate consumption, where the employment is at or from an establishment engaged mainly in any activities of 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;

(d) as a member of the crew of an aircraft, or as the master or a member of the crew of a ship or, in the case of a person ordinarily employed as a seaman, 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;

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

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

(i) a harbour authority 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 British Gas Corporation;

(v) statutory water undertakers within the meaning of the Water Act 1973(**a**) or water authorities within the meaning of the Local Government (Scotland) Act 1973(**b**) or water development boards within the meaning of the Water (Scotland) Act 1967(**c**), being the activities of such undertakers, authorities or boards in the exercise of their powers or duties as such;

(vi) the British Airports Authority or a member of the British Airways Group;

(vii) a marketing board; or

(viii) the United Kingdom Atomic Energy Authority.

Exemption Certificates

4. Exemption Certificates issued by the Board shall not exempt any employer in the industry from that portion of the levy which equals 0.1 per cent. of the sum of the emoluments upon which the levy is to be assessed under article 3(2) above.

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.

(**a**) 1973 c. 37.
(**b**) 1973 c. 65.
(**c**) 1967 c. 78.

(2) 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.

(3) 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 the levy payable under an assessment notice served by the board shall be due and payable to the Board in two instalments, as follows:—

(a) The first instalment, being 10 per cent. of the levy, shall be due and payable on 1st August 1982, and

(b) the second instalment, being the remainder of the levy, shall be due and payable on 1st August 1983.

(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 if that person 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 (5) of that Article, and such withdrawal may be extended by the Board to any other assessment appearing in the assessment notice.

(2) The withdrawal of an assessment shall be without prejudice:—

(a) 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 sixteenth levy period, the said notice may provide that the whole amount payable thereunder in respect of the establishment shall be due one month after the date of the notice; or

(b) to any other assessment included in the original assessment notice and not withdrawn by the Board, and such notice shall thereupon have effect as if any assessment withdrawn by the Board has not been included therein.

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 last foregoing paragraph.

(4) In the case of an establishment that ceases to carry on business in the sixteenth 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**) 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(**b**).

(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.

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.

(**a**) S.I. 1965/1101; relevant amending instruments are S.I. 1967/301, 1977/1473.
(**b**) S.I. 1965/1157; relevant amending instruments are S.I. 1967/302, 1977/1474.

Signed by order of the Secretary of State.
15th June 1982.

Peter Morrison,
Joint Parliamentary Under Secretary of State,
Department of Employment.

Article 3

SCHEDULE

THE INDUSTRIES REFERRED TO IN ARTICLE 3(6)(*c*) OF THIS ORDER

Column 1	Column 2
The wool, jute and flax industry	The Industrial Training (Wool Industry Board) Order 1964(**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(**c**)
The engineering industry	The Industrial Training (Engineering Board) Order 1964(**d**)
The shipbuilding industry	The Industrial Training (Shipbuilding Board) Order 1964(**e**)
The ceramics, glass and mineral products industry	The Industrial Training (Ceramics, Glass and Mineral Products Board) Order 1965(**f**)
The furniture and timber industry	The Industrial Training (Furniture and Timber Industry Board) Order 1965(**g**)
The man-made fibres producing industry	The Industrial Training (Man-made Fibres Producing Industry Board) Order 1966(**h**)
The carpet industry	The Industrial Training (Carpet Board) Order 1966(**i**)
The knitting, lace and net industry	The Industrial Training (Knitting, Lace and Net Industry Board) Order 1966(**j**)
The cotton and allied textiles industry	The Industrial Training (Cotton and Allied Textiles Board) Order 1966(**k**)
The agricultural, horticultural and forestry industry	The Industrial Training (Agricultural, Horticultural and Forestry Board) Order 1966(**l**)
The road transport industry	The Industrial Training (Road Transport Board) Order 1966(**m**)

(**a**) S.I. 1964/907, amended by S.I. 1968/898.
(**b**) S.I. 1964/949, amended by S.I. 1969/884.
(**c**) S.I. 1964/1079, amended by S.I. 1980/1274.
(**d**) S.I.1964/1086, amended by S.I. 1980/1273.
(**e**) S.I. 1964/1782, amended by S.I. 1968/1614.
(**f**) S.I. 1965/1391, amended by S.I. 1969/689.
(**g**) S.I. 1965/2028, amended by S.I. 1969/1290, 1970/1634, 1973/1224.
(**h**) S.I. 1966/143, amended by S.I. 1969/1210.
(**i**) S.I. 1966/245, amended by S.I. 1968/1882.
(**j**) S.I. 1966/246.
(**k**) S.I. 1966/823.
(**l**) S.I. 1966/969, amended by S.I. 1970/1886.
(**m**) S.I. 1966/1112, amended by S.I. 1972/772, 1973/860.

Column 1	Column 2
The air transport and travel industry	The Industrial Training (Civil Air Transport Board) Order 1967(**a**)
The petroleum industry	The Industrial Training (Petroleum Board) Order 1967(**b**)
The chemical and allied products industry	The Industrial Training (Chemical and Allied Products Board) Order 1967(**c**)
The paper and paper products industry	The Industrial Training (Paper and Paper Products Board Order 1968(**d**)
The printing and publishing industry	The Industrial Training (Printing and Publishing Board) Order 1968(**e**)
The distributive industry	The Industrial Training (Distributive Board) Order 1968(**f**)
The food, drink and tobacco industry	The Industrial Training (Food, Drink and Tobacco Board) Order 1968(**g**)
The footwear, leather and fur skin industry	The Industrial Training (Footwear, Leather and Fur Skin Board) Order 1968(**h**)
The clothing and allied products industry	The Industrial Training (Clothing and Allied Products Board) Order 1969(**i**)
The rubber and plastics processing industry	The Industrial Training (Rubber and Plastics Processing Board) Order 1967(**j**)

(**a**) S.I. 1967/263, amended by S.I. 1970/252.
(**b**) S.I. 1967/648, amended by S.I. 1970/205.
(**c**) S.I. 1967/1386, amended by S.I. 1970/1743.
(**d**) S.I. 1968/787.
(**e**) S.I. 1968/786.
(**f**) S.I. 1968/1032, amended by S.I. 1970/1053, 1971/1876.
(**g**) S.I. 1968/1033, amended by S.I. 1971/648.
(**h**) S.I. 1968/1763, amended by S.I. 1972/597.
(**i**) S.I. 1969/1375.
(**j**) S.I. 1967/1062, amended by S.I. 1979/1595.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which comes into operation on 19th July 1982, gives effect to proposals of the Hotel and Catering Industry Training Board which were submitted to and approved by the Manpower Services Commission, and thereafter submitted by the Manpower Services Commission to the Secretary of State. The proposals are for the imposition of a levy on employers in the hotel and catering industry for the purpose of raising money towards meeting the expenses of the Board.

The levy is to be imposed in respect of the sixteenth levy period commencing with the day upon which this Order comes into operation and ending on 31st March 1983. 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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