STATUTORY INSTRUMENTS

1973 No. 1709

INDUSTRIAL TRAINING

The Industrial Training Levy (Man-made Fibres) Order 1973

Made - - -	*15th October* 1973
Laid before Parliament	*24th October* 1973
Coming into Operation	*20th November* 1973

The Secretary of State after approving proposals submitted by the Man-made Fibres Producing Industry Training Board for the imposition of a further levy on employers in the man-made fibres producing industry and in exercise of powers conferred by section 4 of the Industrial Training Act 1964(**a**) and now vested in him(**b**), 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 (Man-made Fibres) Order 1973 and shall come into operation on 20th November 1973.

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

(*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 Man-made Fibres Producing 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(**e**);

(*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 man-made fibres producing industry at any time in the fourth levy period;

(*i*) "the fourth base period" means the period of twelve months that commenced on 6th April 1971;

(j) "the fourth levy period" means the period commencing with the day upon which this Order comes into operation and ending on 31st March 1975;

(**a**) 1964 c. 16.
(**b**) S.I. 1968/729 (1968 II, p. 2108).
(**c**) 1947 c. 48.
(**d**) 1948 c. 45.
(**e**) 1970 c. 10.

(*k*) "the industrial training order" means the Industrial Training (Man-made Fibres Producing Industry Board) Order 1969(**a**);

(*l*) "the levy" means the levy imposed by the Board in respect of the fourth levy period;

(*m*) "man-made fibres producing establishment" means an establishment in Great Britain engaged wholly or mainly in the man-made fibres producing industry for a total of twenty-seven or more weeks in the fourth base period or, being an establishment that commenced to carry on business in the fourth 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 upon which business was commenced and ending on the last day thereof;

(*n*) "the man-made fibres producing 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 man-made fibres producing industry;

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

(*p*) "polyethylene terephthalate establishment" means any establishment in Great Britain (not being a man-made fibres producing establishment) at or from which persons were employed in the fourth base period in the production of textile fibres from polyethylene terephthalate.

(2) 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.

(3) 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 fourth 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 (being a man-made fibres producing establishment or a polyethylene terephthalate establishment) of an employer, but in agreement with the employer one assessment may be made in respect of any number of man-made fibres producing establishments or of polyethylene terephthalate establishments, in which case any establishments so assessed together shall be deemed for the purposes of that assessment to constitute one establishment.

(3) Subject to the provisions of this Article, the levy assessed in respect of an establishment shall be an amount equal to 0·03 per cent. of the sum of the emoluments of the following persons, being persons employed, or deemed under the provisions of the next following paragraph to have been employed, by the employer at or from the establishment in the fourth base period, that is to say—

(*a*) in the case of a man-made fibres producing establishment, all such persons; or

(**a**) S.I. 1969/1210 (1969 II, p. 3545). (**b**) 1889 c. 63.

(*b*) in the case of a polyethylene terephthalate establishment all such persons employed in the production of man-made fibres from polyethylene terephthalate.

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

(5) The amount of the levy imposed in respect of an establishment that ceases to carry on business in the fourth levy period shall be in the same proportion to the amount that would otherwise be due under paragraph (3) 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 engaged wholly in agriculture or in the supply of food or drink for immediate consumption.

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.

(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 provisions of this Article and of Articles 6 and 7, the amount of each assessment appearing in an assessment notice served by the Board shall be payable to the Board in two equal instalments and the said instalments shall be due respectively on 1st January 1974 and 1st July 1974.

(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 (5) 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 and, where the withdrawal is made by reason of the fact that an establishment has ceased to carry on business in the fourth 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.

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) In the case of an establishment that ceases to carry on business in the fourth 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

8.—(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.

Signed by order of the Secretary of State.

15th October 1973.

R. Chichester-Clark,
Minister of State,
Department of Employment.

EXPLANATORY NOTE

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

This Order gives effect to proposals submitted by the Man-made Fibres Producing Industry Training Board to the Secretary of State for Employment for the imposition of a further levy upon employers in the man-made fibres producing industry for the purpose of raising money towards the expenses of the Board.

The levy is to be imposed in respect of the fourth levy period commencing with the date on which this Order comes into operation and ending on 31st March 1975. 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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