1968. No. 164 **[C]**

INDUSTRIAL TRAINING

Industrial Training Levy (Road Transport Industry)

ORDER, DATED 11TH JULY 1968, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER THE INDUSTRIAL TRAINING ACT (NORTHERN IRELAND) 1964.

The Ministry of Health and Social Services after approving proposals submitted by the Road Transport Industry Training Board for the imposition of a levy in the road transport industry and in exercise of the powers conferred by section 4 of the Industrial Training Act (Northern Ireland) 1964(a) and of all other powers enabling it in that behalf, hereby makes the following Order:—

Citation and interpretation

1.—(1) This Order may be cited as the Industrial Training Levy (Road Transport Industry) Order (Northern Ireland) 1968.

(2) In this Order—

"an appeal tribunal" means an industrial tribunal established under section 13 of the Industrial Training Act (Northern Ireland) 1964;

"assessment" means an assessment of an employer to the levy;

"the Board" means the Road Transport Industry Training Board;

"business" means any activity of industry or commerce;

"emoluments" means all emoluments assessable to income tax under Schedule E of the Income Tax Act 1952(b) (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;

"employer" means an employer in the road transport industry at any time in the first 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 first base period is less than £1,500;

"the first base period" means the period of twelve months that commenced on 6th April 1967;

"the first levy period" means the period which commences on 1st August 1968 and ends on 31st July 1969;

"the industrial training order" means the Industrial Training (Road Transport Board) Order (Northern Ireland) 1967(c);

"the levy" means the levy imposed by the Board in respect of the first levy period;

"notice" means a notice in writing;

"road transport activities" means the activities specified in paragraph 1 of Schedule 1 to the industrial training order as the activities of the road transport industry;

"road transport establishment" means an establishment in Northern Ireland engaged wholly or mainly in road transport activities in the first base period;

(a) 1964. c. 18 (N.I.).
(b) 15 & 16 Geo. 6 and 1 Eliz. 2. c. 10.
(c) S.R. & O. (N.I.) 1967, No. 30.

"the road transport 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 road transport industry.

(3) A person employed at any time in the first 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 purpose of this Order to have been in the employment of—

(*a*) the person or persons carrying on the said establishment on the date upon which an assessment notice is first served under Article 4(1) or

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

(4) Any reference in this Order to an establishment that commences or 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.

Imposition of the Levy

2. The levy to be imposed by the Board on employers in respect of the first levy period shall be assessed and paid in accordance with the provisions of this Order.

Assessment of the Levy

3.—(1) The levy shall be assessed by the Board separately in respect of each road transport establishment of an employer, 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) For the purposes of this Article no regard shall be had to the emoluments of any person employed

(*a*) in any road transport establishment wholly or mainly engaged in road transport activities specified in sub-paragraphs (*a*) (in so far as these activities relate to the carriage of passengers by taxi-cabs only), (*c*), (*i*), (*k*) and (*m*) (in so far as these activities relate to public warehousing cold storage only) of paragraph 1 of Schedule 1 to the industrial training order;

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

(3) Subject to the provisions of this Article the levy to be assessed in respect of the emoluments of any person employed in road transport activities specified in sub-paragraphs (*a*) (other than by taxi-cabs), (*b*), (*d*), (*h*) and (*m*) (other than cold storage) of paragraph 1 of Schedule 1 to the industrial training order shall be an amount equal to 1 per cent. of the sum of the emoluments of any persons so employed by the employer, or deemed to be so employed by the provisions of Article 1(3), in the first base period.

(4) Subject to the provisions of this Article the levy to be assessed in respect of the emoluments of any person employed in road transport activities specified in sub-paragraphs (*e*), (*f*), (*g*), (*j*) and (*l*) of paragraph 1 of Schedule 1 to the industrial training order shall be an amount equal to 1·5 per cent. of the sum of the emoluments of any persons so employed by the employer, or deemed to be so employed by the provisions of Article 1(3), in the first base period.

(5) Subject to the provisions of this Article the levy to be assessed in respect of the emoluments of any person employed in road transport activities specified in sub-paragraphs (*n*) and (*o*) of paragraph 1 of Schedule 1 to the industrial training order shall be an amount equal to either 1 per cent. or 1·5 per cent. of the sum of the emoluments of any persons so employed by the employer or deemed to be so employed by the provisions of Article 1(3) in the first base period according as to whether that person is so employed in relation to the activities mentioned in Article 3(3) or Article 3(4).

(6) The amount of the levy imposed in respect of a road transport establishment that ceases to carry on business in the first 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.

Assessment Notice

4.—(1) The Board shall serve an assessment notice imposing a levy calculated in accordance with Article 3(3) or (4) or (5) as appropriate on every employer assessed to the levy, but a single notice may be served in respect of several assessments.

(2) The amount payable under an assessment notice shall be rounded down to the nearest £1.

(3) An assessment notice may be served on an employer either by delivering it to him personally or 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 company, at the company's last address.

Payment of Levy

5.—(1) Subject to the provisions of this Article and Articles 6 and 7 the amount of each assessment appearing in an assessment notice served by the Board 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 five further months.

(2) The amount of an assessment shall not be recoverable by the Board until any time allowed for appealing against the assessment has expired or, where an appeal is brought, until the appeal is decided or withdrawn.

Review of Assessment

6.—(1) The Board may, by notice served on the employer, withdraw an assessment at any time within which the employer may appeal, or be allowed to appeal, against the assessment under the provisions of Article 7 provided no appeal has been entered in the Register of Appeals kept under the 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 first 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 to any other assessment included in the original assessment notice, and such notice shall thereupon have effect as if any assessment withdrawn by the Board had not been included therein.

Appeals

7.—(1) An employer may appeal to an appeal tribunal against an 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 for good cause may, by notice, extend the time within which an appeal may be made by such further period or periods as the Board may allow in any case where an application for such extension is made within the period of four months from the date of the service of the relevant notice of assessment or, where an extension has already been granted, before the period of such extension has expired.

(3) If the Board shall not allow an application for extension of time for appealing an appeal tribunal may, upon application made to it by the employer within the period of 14 days from the date of receipt of the decision of the Board refusing such an application, extend the period within which an appeal may be made by such further period as the tribunal may allow.

(4) In the case of an establishment that ceases to carry on business in the first 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 Regulations (Northern Ireland) 1965(**d**).

(6) The powers of an appeal tribunal under paragraph (3) may be exercised by the President of the Industrial Tribunals.

Evidence

8.—(1) Upon the discharge by an employer of his liability under an assessment the Board shall if so requested issue to him a certificate in writing to the effect that he has done so.

(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 of a certificate such as is mentioned in paragraph (1) shall, unless the contrary is proved, be sufficient evidence of the document and of the facts stated therein.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 11th day of July nineteen hundred and sixty-eight.

(L.S.)

W. G. H. Quigley,
Assistant Secretary.

(d) S.R. & O. (N.I.) 1965, No. 112 as amended by S.R. & O. (N.I.) 1966, No. 261 and S.R. & O. (N.I.) 1967, No. 109.

EXPLANATORY NOTE

(This note is not part of the Order but is intended to indicate its general purport.)

This Order gives effect to the proposals submitted by the Road Transport Industry Training Board to the Ministry of Health and Social Services for the imposition of a levy upon employers in the road transport industry for the purpose of raising money towards the expenses of the Board.

This levy is to be imposed in respect of the first levy period commencing on 1st August 1968 and ending on 31st July 1969. The levy will be assessed by the Board and there will be a right of appeal against an assessment to an industrial tribunal.