STATUTORY INSTRUMENTS

1971 No. 1049

INDUSTRIAL TRAINING

The Industrial Training Levy (Road Transport) Order 1971

Made - - -	23*rd June* 1971
Laid before Parliament	1*st July* 1971
Coming into Operation	14*th July* 1971

The Secretary of State after approving proposals submitted by the Road Transport Industry Training Board for the imposition of a further levy on employers in the road transport 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 (Road Transport) Order 1971 and shall come into operation on 14th July 1971.

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 Road Transport 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*) "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 road transport industry at any time in the fifth levy period ;

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

(*i*) "the fifth base period" means the period of twelve months that commenced on 6th April 1970;

(*j*) "the fifth levy period" means the period commencing with the day upon which this Order comes into operation and ending on 5th April 1972;

(*k*) "the industrial training order" means the Industrial Training (Road Transport Board) Order 1969(**a**) as amended by the Industrial Training (Road Transport Board) Order 1969 (Amendment) Order 1969(**b**);

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

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

(*n*) "road transport establishment" means an establishment in Great Britain engaged in the fifth base period wholly or mainly in the road transport industry for a total of twenty-seven or more weeks or, being an establishment that commenced to carry on business in the fifth 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;

(*o*) "the road transport 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 road transport industry;

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

(2) Any reference in this Order to persons employed at or from a road transport establishment shall in any case where the employer is a company be construed as including a reference to any director of the company (or any person occupying the position of director by whatever name he is called) who devotes substantially the whole of his time to the service of the company.

(3) In the case where a road transport 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 fifth 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, and any reference in this Order to persons employed by the employer at or from a road transport establishment in the fifth base period shall be construed accordingly.

(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(**c**) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(**a**) S.I. 1969/879 (1969 II, p. 2495). (**b**) S.I. 1969/1871 (1969 III, p. 5815).
(**c**) 1889 c. 63.

Imposition of the levy

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

(2) The levy shall be assessed by the Board in respect of each employer, not being an employer who is exempt from the levy by virtue of paragraph (5) of this Article, and, subject to the provisions of this Article, the amount thereof shall be the following percentage of the sum of the emoluments of all the persons employed by the employer in the fifth base period at or from his road transport establishment or establishments (being an establishment or establishments carrying on business in the fifth levy period), that is to say—

(*a*) where the said sum exceeded £5,000, but was less than £30,000, 1·5 per cent.;

(*b*) where the said sum was £30,000 or more, 2·2 per cent..

(3) Where any persons whose emoluments are taken into account for the purposes of paragraph (2) of this Article were employed at or from an establishment that ceases to carry on business in the fifth levy period, the sum of the emoluments of those persons shall, for the purposes of the assessment, be reduced in the same proportion 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, but the appropriate percentage shall be determined in accordance with the provisions of the said paragraph as if the provisions of this paragraph did not apply.

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

(*a*) by the London Transport Executive wholly in any activities to which paragraph 1(*o*) of the Schedule to the industrial training order applies, not being activities that are specified in head (ii) (v) or (vi) of paragraph 3(*p*) of that Schedule and are incidental or ancillary to principal activities of the road transport industry;

(*b*) by a local authority or a joint board or joint committee of such authorities in any activities, not being activities carried out for the purposes of a passenger road transport service provided by the authority, board or committee;

(*c*) wholly in agriculture;

(*d*) wholly as a registered dock worker on dock work; or

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

(5) 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 fifth base period at or from the road transport establishment or establishments of the employer was £5,000 or less;

(*b*) a charity.

Assessment Notices

4.—(1) The Board shall serve an assessment notice on every employer assessed to the levy.

(2) The amount 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 levy

5.—(1) Subject to the provisions of this Article and of Articles 6 and 7, the amount of the levy payable under an assessment notice served by the Board shall be payable to the Board as follows—

(*a*) where paragraph 2(*a*) of Article 3 of this Order applies, by one payment due one month after the date of the assessment notice; or

(*b*) where paragraph 2(*b*) of the said Article applies, by two instalments, the first of which shall be equal to 1·5% of the sum of the emoluments by reference to which the amount of the said levy has been assessed in accordance with the provisions of the said Article, and the second equal to the balance of the amount payable under the assessment notice. The first of the said instalments shall be due one month after the date of the assessment notice and the second on 1st March 1972.

(2) No part of an assessment shall 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 on the employer, and where the withdrawal is made by reason of the fact that an establishment has ceased to carry on business in the fifth levy period, the said notice may provide that the whole amount payable thereunder 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 assessment that has reference to an establishment that ceases to carry on business in the fifth levy period on any day after the date of the service of the 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 assessment relates to persons employed at or from one or more establishments which are wholly in Scotland and to no other persons 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.

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 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.
23rd June 1971.

Paul Bryan,
Minister of State,
Department of Employment.

(**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).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order gives effect to proposals submitted by the Road Transport Industry Training Board to the Secretary of State for Employment for the imposition of a further levy upon employers in the road transport industry for the purpose of raising money towards the expenses of the Board.

The levy is to be imposed in respect of the fifth levy period commencing with the day upon which this Order comes into operation and ending on 5th April 1972. The levy will be assessed by the Board and there will be a right of appeal against an assessment to an industrial tribunal.