STATUTORY INSTRUMENTS

1978 No. 940

INDUSTRIAL TRAINING

The Industrial Training Levy (Road Transport) Order 1978

Made - - -	*5th July* 1978
Laid before Parliament	13*th July* 1978
Coming into Operation	10*th August* 1978

Whereas proposals made by the Road Transport 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"), as amended by section 6 of and Schedule 2 to the Employment and Training Act 1973(**b**) ("the 1973 Act") and have thereafter been submitted by the said Commission to the Secretary of State under section 7(1C) of the 1964 Act as inserted by the 1973 Act;

And whereas in pursuance of section 7(1A)(*a*) of the 1964 Act as inserted by the 1973 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 road transport industry, does not exceed an amount which the Secretary of State estimates is equal to one per cent. of 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 twelfth 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, as inserted by the 1973 Act, provide for exemption certificates relating to the levy in such cases as he considers necessary;

Now, therefore, the Secretary of State in exercise of the powers conferred on him by section 4 of the 1964 Act, as amended by section 6 of and Schedule 2 to the 1973 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 (Road Transport) Order 1978 and shall come into operation on 10th August 1978.

(**a**) 1964 c. 16. (**b**) 1973 c. 50.

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 Road Transport Industry Training Board;

(*d*) "business" means any activities of industry or commerce;

(*e*) "employer" means a person who is an employer in the road transport industry at any time in the twelfth levy period;

(*f*) "the industrial training order" means the Industrial Training (Road Transport Board) Order 1966(**a**) as amended by the Industrial Training (Road Transport Board) Order 1972(**b**) and the Industrial Training (Road Transport Board) Order 1966 (Amendment) Order 1973(**c**);

(*g*) "the levy" means the levy imposed by the Board in respect of the twelfth levy period;

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

(*i*) "road transport establishment" means an establishment in Great Britain engaged in the twelfth 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 twelfth 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;

(*j*) "the road transport industry" does not include any activities which have 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 Schedule 1 to the industrial training order, are specified in paragraph 1 of that schedule as the activities of the road transport 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;

(*k*) "the transfer orders" means:—

(i) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1974(**d**),

(ii) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1975(**e**),

(iii) the Industrial Training (Transfer of the Activities of Establishments) Order 1976(**f**),

(iv) the Industrial Training (Transfer of the Activities of Establishments) (No. 3) Order 1976(**g**),

(v) the Industrial Training (Transfer of the Activities of Establishments) Order 1977 (**h**), and

(vi) the Industrial Training (Transfer of the Activities of Establishments) Order 1978(**i**);

(**a**) S.I. 1966/1112.
(**b**) S.I. 1972/772.
(**c**) S.I. 1973/860.
(**d**) S.I. 1974/1495.
(**e**) S.I. 1975/1157.
(**f**) S.I. 1976/396.
(**g**) S.I. 1976/2110.
(**h**) S.I. 1977/1951.
(**i**) S.I. 1978/448.

(*l*) "the twelfth base period" means the period of twelve months that commenced on 6th April 1977;

(*m*) "the twelfth levy period" means the period commencing with the day upon which this Order comes into operation and ending on 31st July 1979.

(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) 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.

(4) The Interpretation Act 1889(**a**) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Imposition of the levy

3. The levy to be imposed by the Board on employers in respect of the twelfth levy period shall be assessed in accordance with the provisions of the Schedule to this Order.

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 due and payable to the Board on 1st December 1978, or one month after the date of the assessment notice, whichever is the later.

(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 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.

(**a**) 1889 c. 63.

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.

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 twelfth 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.

(**a**) S.I. 1965/1101.
(**b**) S.I. 1967/301.
(**c**) S.I. 1965/1157.
(**d**) S.I. 1967/302.

(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.
5th July, 1978.

John Golding,
Joint Parliamentary Under-Secretary of State,
Department of Employment.

SCHEDULE Article 3

1.—(1) In this Schedule unless the context otherwise requires—

(*a*) "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;

(*b*) "exemption certificate" means a certificate issued by the Board under section 4B of the 1964 Act as inserted by the 1973 Act;

(*c*) "the relevant date" means the 5th April 1978;

(*d*) "the relevant establishment" means the road transport establishment of an employer other than an 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 exempted by virtue of paragraph 3 of this Schedule;

(*e*) other expressions have the meanings assigned to them respectively by paragraph 3 or 4 of the Schedule to the industrial training order or by Article 2 of this Order.

(2) For the purposes of this Schedule 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(*p*) of Schedule 1 to the industrial training order applies, not being activities that are specified in head (ii), (v) or (vi) of the definition of related activities in paragraph 3 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.

2. Subject to the provisions of this Schedule, the levy shall be assessed by the Board in respect of each employer and the amount thereof shall be equal to 1·0 per cent. of the sum of the emoluments of all the persons employed by the employer in the twelfth base period at or from the relevant establishment or establishments.

3. There shall be exempt from the levy an employer—

(*a*) in whose case the sum of the emoluments of all the persons employed by him in the twelfth base period at or from his road transport establishment or establishments (whether or not any such establishment is a relevant establishment) is £18,000 or less (£21,000 or less in the case of an employer wholly or mainly engaged on the relevant date in any of the activities comprised in Group 1 of the Appendix to this Schedule, or £36,000 or less in the case of an employer wholly or mainly engaged on the relevant date in any of the activities comprised in Groups 2 and 3 of the said Appendix);

(*b*) who was wholly or mainly engaged on the relevant date in giving instruction by way of business in the driving of motor vehicles or goods vehicles.

4. Where any persons whose emoluments are taken into account for the purpose of the preceding paragraphs of this Schedule were employed at or from an establishment that ceases to carry on business in the twelfth levy period, the sum of the emoluments of those persons shall, for the purposes only of paragraph 2 above, 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.

APPENDIX

Column 1	Column 2
Group No.	*Description of Activities*
1.	Dealing in, letting out on hire or the repair by way of business of, agricultural machinery and equipment.
2.	The carriage of passengers by motor vehicles on roads for hire or reward.
3.	The letting out on hire (with or without the services of the drivers) of motor vehicles for the conveyance of persons.

EXPLANATORY NOTE

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

This Order gives effect to proposals of the Road Transport 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 road transport industry for the purpose of encouraging adequate training in the industry.

The levy is to be imposed in respect of the twelfth levy period commencing with the day upon which this Order comes into operation and ending on 31st July 1979. The levy will be assessed by the Board and there will be a right of appeal against an assessment to an industrial tribunal.

SI 1978/940
ISBN 0-11-083940-4

