
STATUTORY INSTRUMENTS

1988 No. 90

The Industrial Training Levy (Construction Board) Order 1988

Citation and commencement

1. This Order may be cited as the Industrial Training Levy (Construction Board) Order 1988 and shall come into force on the day after the day on which it is made.

Interpretation

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

- (a) “assessment” means an assessment of an employer to the levy;
- (b) “the Board” means the Construction Industry Training Board;
- (c) “business” means any activities of industry or commerce;
- (d) “construction establishment” means an establishment in Great Britain engaged wholly or mainly in the construction industry for a total of twenty-seven or more weeks in the period of twelve months that commenced on 6th April 1986 or, being an establishment that commenced to carry on business in the said 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;
- (e) “the construction industry” does not include any activities of an establishment 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 the Schedule to the industrial training order, are specified in paragraph 1 of that Schedule as the activities of the construction 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;
- (f) “the twenty-third levy period” means the period commencing with the day upon which this Order comes into force and ending on 31st March 1988.
- (g) “employer” means a person who is an employer in the construction industry at any time in the twenty-third levy period;
- (h) “the industrial training order” means the Industrial Training (Construction Board) Order 1964(1);
- (i) “the levy” means the levy imposed by the Board in respect of the twenty-third levy period;
- (j) “notice” means a notice in writing;
- (k) “the transfer orders” means—
 - (i) the Industrial Training (Transfer of the Activities of Establishments) Order 1975(2);

(1) S.I. 1964/1079, amended by S.I. 1980/1274, 1982/922.

(2) S.I. 1975/434.

- (ii) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1975(3);
- (iii) the Industrial Training (Transfer of the Activities of Establishments) Order 1976(4);
- (iv) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1976(5);
- (v) the Industrial Training (Transfer of the Activities of Establishments) (No. 3) Order 1976(6);
- (vi) the Industrial Training (Transfer of the Activities of Establishments) Order 1977(7);
- (vii) the Industrial Training (Transfer of the Activities of Establishments) Order 1978(8);
- (viii) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1978(9);
- (ix) the Industrial Training (Transfer of the Activities of Establishments) (No. 3) Order 1978(10);
- (x) the Industrial Training (Transfer of the Activities of Establishments) Order 1979(11);
- (xi) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1980(12);
- (xii) the Industrial Training (Transfer of the Activities of Establishments) Order 1981(13);
and
- (xiii) the Industrial Training (Transfer of the Activities of Establishments) Order 1985(14).

(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.

Imposition of the levy

3.—(1) The levy to be imposed by the Board on employers in respect of the twenty-third levy period shall be assessed in accordance with the provisions of this article and of the Schedule to this Order.

(2) The levy shall be assessed by the Board separately in respect of each construction establishment of an employer, but in agreement with the employer one 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.

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.

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- (3) S.I. 1975/1157.
 - (4) S.I. 1976/396.
 - (5) S.I. 1976/1635.
 - (6) S.I. 1976/2110.
 - (7) S.I. 1977/1951.
 - (8) S.I. 1978/448.
 - (9) S.I. 1978/1225.
 - (10) S.I. 1978/1643.
 - (11) S.I. 1979/793.
 - (12) S.I. 1980/1753.
 - (13) S.I. 1981/1041.
 - (14) S.I. 1985/1662.

(2) An assessment notice shall state the amount of the levy payable by the person assessed to the levy, and that amount shall be equal to the total amount of the levy assessed by the Board under the provisions of this Order in respect of each establishment included in the notice.

(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

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(1) Subject to the provisions of this article and of articles 6 and 7 of this Order, the amount of the levy payable under an assessment notice served by the Board shall be due and payable to the Board one month after the date of the assessment notice.

(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 industrial 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—

- (a) to the power of the Board to serve a further assessment notice in respect of any establishment to which that assessment related; or
- (b) 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) A person assessed to the levy may appeal to an industrial 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 industrial 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 industrial tribunal against an 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 industrial 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 twenty-third 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 industrial tribunal under this article shall be made in accordance with the Industrial Tribunals (England and Wales) Regulations 1965⁽¹⁵⁾ except where the establishment to which the relevant assessment relates is wholly in Scotland, when the appeal or application shall be made in accordance with the Industrial Tribunals (Scotland) Regulations 1965⁽¹⁶⁾.

(6) The powers of an industrial 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 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.

20th January 1988

Patrick Nicholls
Parliamentary Under Secretary of State
Department of Employment

⁽¹⁵⁾ S.I. 1965/1101, amended by S.I. 1967/301.

⁽¹⁶⁾ S.I. 1965/1157, amended by S.I. 1967/302.