STATUTORY RULES OF NORTHERN IRELAND

2007 No. 343

INDUSTRIAL TRAINING

The Industrial Training Levy (Construction Industry) Order (Northern Ireland) 2007

Made - - - -	*18th July 2007*
Coming into operation	*31st August 2007*

This Order is made to give effect to levy proposals submitted by the Construction Industry Training Board ("the Board") to the Department for Employment and Learning(**1**) ("the Department") pursuant to Article 23(1) of the Industrial Training (Northern Ireland) Order 1984(**2**) ("the Order of 1984").

As required by Article 23(3) of the Order of 1984, the levy proposals include proposals for exempting from the levy any employer who, in view of the small amount of the relevant emoluments, ought in the opinion of the Department to be exempted.

The levy proposals include proposals that no remission be given to employers in the construction industry. Accordingly, Article 23(6) of the Order of 1984 applies to this Order.

In relation to the requirements set out in Article 23(6) of the Order of 1984, the Department is satisfied that the levy proposals are necessary to encourage adequate training in the industry and the condition in Article 23(7)(a) is satisfied.

The Department estimates that the levy to be paid by any employer in the industry does not exceed an amount which the Department estimates is equal to one per cent of the relevant emoluments. Accordingly, this Order does not fall within Article 23(8) of the Order of 1984.

The Department makes the following Order in exercise of the powers conferred by Articles 23(2) and 24(3) and (4) of the Order of 1984 and now vested(**3**) in it.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Industrial Training Levy (Construction Industry) Order (Northern Ireland) 2007 and shall come into operation on 31st August 2007.

(2) In this Order—

(**1**) Formerly known as the Department of Higher and Further Education, Training and Employment; renamed the Department for Employment and Learning by the Department for Employment and Learning Act (Northern Ireland) 2001 c. 15 (N.I.)

(**2**) S.I.1984/1159 (N.I. 9)

(**3**) Functions under the Industrial Training (Northern Ireland) Order 1984 were transferred to the Department of Higher and Further Education, Training and Employment by S.R. 1999 No. 481 Article 4(b) and Schedule 2 Part II

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

"the Board" means the Construction Industry Training Board(**4**);

"business" means any activities of industry or commerce;

"Construction Board Order" means the Industrial Training (Construction Board) Order (Northern Ireland) 1964(**5**);

"construction establishment" means an establishment in Northern Ireland engaged wholly or mainly in the construction industry—

(a) for a total of twenty-seven or more weeks in the forty-third levy period; or

(b) in the case of an establishment that commenced to carry on business in the forty-third base period, for a total number of weeks exceeding one-half of the number of weeks in the part of the said base period commencing on the day on which business commenced and ending on the last day of the base period; or

(c) where an election is made, in any part of the alternative forty-third base period.

"construction industry" means any one or more of the activities which, subject to the provisions of paragraph 2 of Schedule 1 to the Construction Board Order are specified in paragraph 1 of that Schedule as the activities of the construction industry;

"election" means an election made in accordance with the provisions of Article 2(4), by an employer to pay the levy in respect of the relevant emoluments of persons employed at or from a construction establishment during the alternative forty-third base period;

"emoluments" means—

(a) earnings within the meaning of section 62 of the Income Tax (Earnings and Pensions) Act 2003(**6**) which are chargeable to tax under Part 2 of that Act; and

(b) all other payments under a contract for service or otherwise than under a contract;

"employer" means a person who is an employer in the construction industry at any time in the forty-third levy period;

"the levy" means the levy imposed by the Board in respect of the forty-third levy period;

"notice" means a notice in writing;

"forty-third base period" means the year that commenced on 6th April 2006 and the "alternative forty-third base period" means the year commencing on 6th April 2007; and

"forty-third levy period" means the year commencing on 1st September 2007.

(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.

Imposition and assessment of the levy for the forty-third levy period

2.—(1) The levy to be imposed on employers 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 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.

(**4**) Established under the Construction Board Order
(**5**) S.R. & O. (N.I.) 1964 No. 145 as amended by S.R. & O. (N.I.) 1967 No. 236, S.R. 1994 No. 312 and S.R. 1997 No. 45
(**6**) 2003 c. 1

(3) Subject to the following provisions of this Article, the amount of the levy imposed on an employer in respect of a construction establishment shall be equal to 0.65 per cent. of the relevant emoluments paid and payable to or in respect of all persons employed by the employer at or from that establishment—

(a) in the forty-third base period; or

(b) where an election is made in accordance with the provisions of paragraph (4) in the alternative forty-third base period,

and no remission of the levy shall be given to an employer.

(4) An election shall be made in writing and shall be in such form and made within such period as the Board may with the approval of the Department determine.

(5) There shall be exempt from the levy—

(a) an employer in relation to whom the relevant emoluments paid or payable to or in respect of all persons in his employment in the forty-third base period are less than £15,000 or in the case of two or more construction establishments where the relevant emoluments of all the persons employed in all such establishments are less than £15,000; or

(b) an employer who has made an election in accordance with the provisions of paragraph (4) in relation to whom the relevant emoluments paid or payable to or in respect of all persons in his employment in the alternative forty-third base period are less than £15,000 or in the case of two or more construction establishments where the relevant emoluments of all the persons employed in all such establishments are less than £15,000.

(6) The amount of the levy imposed in respect of a construction establishment that ceases to carry on business in the forty-third levy period shall be in the same proportion to the amount that would otherwise be due under paragraph (3) 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.

(7) In reckoning the amount of the relevant emoluments for the purposes of this Article no regard shall be had to the emoluments of any person engaged wholly in the supply of food or drink for immediate consumption.

Assessment notices

3.—(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) Where an election has been made, the Board may serve two or more assessment notices in respect of any establishment but—

(a) the interval between such assessment notices shall be not less than four months; and

(b) the amount of the assessment included in each such notice shall not exceed the portion of the levy which has accrued at the date of the notice, and each notice shall specify the period to which the assessment included therein relates.

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

(4) 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.

(5) 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.