1989 No. 336

INDUSTRIAL TRAINING

Industrial Training Levy (Catering Industry) Order (Northern Ireland) 1989

Made . . . . . *10th August 1989*

Coming into operation . . *21st September 1989*

Whereas proposals made by the Catering Industry Training Board(**a**) ("the Board") for the raising and collection of a levy have been submitted to, and approved by, the Department of Economic Development ("the Department") under Article 23(1) of the Industrial Training (Northern Ireland) Order 1984(**b**) ("the Order of 1984");

And whereas the Department estimates that the amount which will be payable by any employer in the catering industry by virtue of this Order does not exceed an amount which the Department estimates is equal to one per cent. of the relevant emoluments being 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 levy proposals as relevant, that is to say the period hereafter referred to in this Order as the "twenty-fourth base period" or, where an election is made, as the "alternative twenty-fourth base period";

And whereas in pursuance of Article 23(3) of the Order of 1984 the said proposals include provision for the exemption from the levy of employers who, in view of the small amount of the relevant emoluments, ought in the opinion of the Department to be exempted from it;

And whereas the Department is satisfied that remission proposals submitted to it by the Board in pursuance of Article 25(1) of the Order of 1984 provide for full remission of the remissible part of the levy in such cases as the Department considers appropriate;

And whereas the levy proposals include provision that the amount of the non-remissible part of the levy will exceed two-tenths of one per cent. of the relevant emoluments;

And whereas in pursuance of Article 23(6) of the Order of 1984 the Department is satisfied and the relevant organisations consider, after taking reasonable steps to ascertain the views of persons they represent, that the levy proposals are necessary to encourage adequate training in the industry;

(**a**) Established under the Catering Board Order
(**b**) S.I. 1984/1159 (N.I. 9)

And whereas Article 23(7)(*b*) of the Order of 1984 is applicable;

Now, therefore, the Department in exercise of the powers conferred on it by Articles 23(2), (3) and (4) and 24(2), (3) and (4) of the Order of 1984, and of every other power enabling it in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Industrial Training Levy (Catering Industry) Order (Northern Ireland) 1989 and shall come into operation on 21st September 1989.

(2) In this Order—

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

"business" means any activities of industry or commerce;

"Catering Board Order" means the Industrial Training (Catering Board) Order (Northern Ireland) 1966(**a**);

"catering establishment" means an establishment in Northern Ireland engaged wholly or mainly in the catering industry for a total of twenty-seven or more weeks in the twenty-fourth base period or, being an establishment that commenced to carry on business in the twenty-fourth 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, or, where an election is made, in any part of the alternative twenty-fourth base period;

"catering industry" means any one or more of the activities which, subject to the provisions of paragraph 2 of Schedule 1 to the Catering Board Order, are specified in paragraph 1 of that Schedule as the activities of the catering industry but shall not include the supply for immediate consumption of light refreshments to persons employed at or from an establishment engaged mainly in activities not being activities specified in Part I of Schedule 1 to the Catering Board Order except where the employer—

(*a*) also supplies for immediate consumption other food and drink; or

(*b*) manufactures any chocolate or flour confectionery so supplied;

"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 the persons employed in the relevant establishment during the alternative twenty-fourth base period;

"emoluments" means all emoluments assessable to income tax under Schedule E (other than pensions and any income derived from gratuities or service charges)(**b**), 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;

(**a**) S.R. & O. (N.I.) 1966 No. 32 as amended by S.R. & O. (N.I.) 1967 No. 236

(**b**) *See* section 19 Income and Corporation Taxes Act 1988 c. 1

"employer" means a person who is an employer in the catering industry at any time in the twenty-fourth levy period;

"establishment comprising catering activities" means an establishment in Northern Ireland (not being a catering establishment) at or from which persons were employed in the twenty-fourth base period, or, where an election is made, the alternative twenty-fourth base period—

(*a*) in the supply in the course of any business of food or drink to persons for immediate consumption; or

(*b*) in the supply by any body or persons of food or drink to persons in their employment for immediate consumption;

"levy" means the levy imposed by the Board in respect of the twenty-fourth levy period;

"light refreshments" means tea, coffee or other non-alcoholic beverage supplied with or without chocolate confectionery or flour confectionery;

"notice" means a notice in writing;

"twenty-fourth base period" means the year that commenced on 6th April 1988 and the "alternative twenty-fourth base period" means the year commencing on 6th April 1989; and

"twenty-fourth levy period" means the year commencing on 1st September 1989.

(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 twenty-fourth 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 catering establishment or each establishment comprising catering activities 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 the assessment to constitute one establishment.

(3) Subject to the provisions of this Article, the levy—

(*a*) shall be assessed in respect of the relevant emoluments of the following persons employed by the employer at or from the establishment, that is to say—

(i) in the case of a catering establishment, all such persons;

(ii) in the case of an establishment comprising catering activities, all such persons employed wholly either in the supply in the course of any business of food or drink to persons for immediate consumption or in the supply by any body of persons of food or drink to persons in their employment; and