1985 No. 234

INDUSTRIAL TRAINING

Industrial Training Levy (Road Transport Industry) Order (Northern Ireland) 1985

Made . . . . . *4th September 1985*

Coming into operation . . . *16th October 1985*

Whereas proposals made by the Road Transport 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 road transport 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 "eighteenth base period" or, where an election is made, as the "alternative eighteenth 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 do not include proposals that the amount of the non-remissible part of the levy will exceed two-tenths of one per cent of the relevant emoluments;

Now, therefore, the Department in exercise of the powers conferred on it by Articles 23(2), (3) and (4) and 24(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 (Road Transport Industry) Order (Northern Ireland) 1985 and shall come into operation on 16th October 1985.

(**a**) Established under the Industrial Training (Road Transport Board) Order (Northern Ireland) S.R. & O. (N.I.) 1967 No. 30 as amended by S.R. & O. (N.I.) 1967 No. 236 and S.R. & O. (N.I.) 1973 No. 258

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

(2) In this Order—

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

"business" means any activities of industry or commerce;

"eighteenth base period" means the year that commenced on 6th April 1984 and "alternative eighteenth base period" means the year commencing on 6th April 1985;

"eighteenth levy period" means the period commencing with the date upon which this Order comes into operation and ending on 31st July 1986;

"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 under contract of service or apprenticeship at or from a road transport establishment during the alternative eighteenth base period;

"emoluments" means all emoluments assessable to income tax under Schedule E (other than pensions), being emoluments from which tax under this Schedule is deductible, whether or not tax in fact falls to be deducted from any particular payment thereof;

"employer" means a person who is an employer in the road transport industry at any time in the eighteenth levy period;

"levy" means the levy imposed by the Board in respect of the eighteenth levy period;

"notice" means a notice in writing;

"road transport establishment" means an establishment in Northern Ireland engaged wholly or mainly in the road transport industry for a total of twenty-seven or more weeks in the eighteenth base period or, being an establishment that commenced to carry on business in the eighteenth 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 eighteenth base period;

"road transport industry" means any one or more of the activities which, subject to the provisions of paragraph 2 of Schedule 1 to the Industrial Training (Road Transport Board) Order (Northern Ireland) 1967(a) are specified in paragraph 1 of that Schedule as the activities of the road transport industry.

(3) Any reference in this Order to a person 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 is required to devote substantially the whole of his time to the service of the company.

(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.

Imposition and assessment of the levy for the eighteenth 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 road transport establishment of an employer, but in agreement with the employer one

(a) S.R. & O. (N.I.) 1967 No. 30 as amended by S.R. & O. (N.I.) 1967 No. 236 and S.R. & O. (N.I.) 1973 No. 258

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.

(3) Subject to the provisions of this Article the amount of the levy imposed on an employer in respect of a road transport establishment shall be the percentage specified in paragraph (4) or (5) of the relevant emoluments paid or payable to or in respect of all persons employed by the employer at or from that establishment—

(*a*) in the eighteenth base period; or

(*b*) where an election is made in accordance with the provisions of paragraph (6), in the alternative eighteenth base period;

and the part of the levy not to be eligible for remission shall be an amount equal to 0.189 per centum of such emoluments.

(4) In the case of a road transport establishment engaged in activities specified in sub-paragraphs (*e*), (*f*), (*i*), (*j*), (*l*) and (*m*) of paragraph 1 of Schedule 1 to the Industrial Training (Road Transport Board) Order (Northern Ireland) 1967(**a**) and any related or administrative activities specified in sub-paragraphs (*p*) and (*q*) of that paragraph the amount of the levy shall be 0.9 per centum of the relevant emoluments.

(5) In the case of a road transport establishment engaged in activities specified in sub-paragraphs (*a*), (*b*), (*c*), (*d*), (*g*), (*h*), (*k*), (*n*) and (*o*) of paragraph 1 of Schedule 1 to the Industrial Training (Road Transport Board) Order (Northern Ireland) 1967 and any related or administrative activities specified in sub-paragraphs (*p*) and (*q*) of that paragraph the amount of the levy shall be equal to 0.7 per centum of the relevant emoluments.

(6) 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.

(7) 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 eighteenth base period are less than £10,000 or in the case of two or more road transport establishments where the relevant emoluments of all the persons employed in all such establishments are less than £10,000; or

(*b*) an employer who has made an election in accordance with the provisions of paragraph (6) in relation to whom the relevant emoluments paid or payable to or in respect of all persons in his employment in the alternative eighteenth base period are less than £10,000 or in the case of two or more road transport establishments where the relevant emoluments of all the persons employed in all such establishments are less than £10,000.

(8) The amount of the levy imposed in respect of a road transport establishment that ceases to carry on business in the eighteenth 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.

(9) 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.

(a) S.R. & O. (N.I.) 1967 No. 30 as amended by S.R. & O. (N.I.) 1967 No. 236 and S.R. & O. (N.I.) 1973 No. 258