1977 No. 160

INDUSTRIAL TRAINING

Industrial Training Levy (Construction Industry) Order (Northern Ireland) 1977

Made . . . . . 1*st June* 1977

Coming into operation . . . 1*st August* 1977

The Department of Manpower Services, after approving proposals submitted by the Construction Industry Training Board for the imposition of a further levy on employers in the construction industry and in exercise of the powers conferred by section 4 of the Industrial Training Act (Northern Ireland) 1964(**a**) and now vested in it(**b**) and of all other powers 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 (Construction Industry) Order (Northern Ireland) 1977 and shall come into operation on 1st August 1977.

(2) In this Order—

"an appeal tribunal" means an industrial tribunal established under section 13 of the Industrial Training Act (Northern Ireland) 1964;

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

"the Board" means the Construction Industry Training Board established under the Industrial Training (Construction Board) Order (Northern Ireland) 1964(**c**);

"business" means any activities of industry or commerce;

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

"the construction industry" 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 construction industry;

"the Department" means the Department of Manpower Services;

"election" means an election, under the provisions of Article 2(3)(*a*)(ii), by an employer to pay the levy in respect of the emoluments of the persons employed in the relevant establishment during the alternative thirteenth base period;

(**a**) 1964 c. 18 (N.I.)
(**b**) By S.R. & O. (N.I.) 1973 No. 504 Article 6(1) (II, p. 2992)
(**c**) S.R. & O. (N.I.) 1964 No. 145 (p. 654), as amended by S.R. & O. (N.I.) 1967 No. 236 (p. 852)

"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;

"employer" means a person who is an employer in the construction industry at any time in the thirteenth levy period, but does not include a person in whose case the sum of the emoluments paid or payable to all persons in, or deemed under the provisions of paragraph (3) to have been in, his employment in the thirteenth base period or, where an election is made, the alternative thirteenth base period, is less than £15,000 or in the case of two or more construction establishments where the sum of the emoluments of all the persons employed in all of such establishments is less than £15,000;

"the industrial training order" means the Industrial Training (Construction Board) Order (Northern Ireland) 1964;

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

"notice" means a notice in writing;

"the thirteenth base period" means the year that commenced on 6th April 1976 and "the alternative thirteenth base period" means the year that commenced on 6th April 1977;

"the thirteenth levy period" means the year commencing on 1st September 1977.

(3) In the case where a construction establishment is taken over (whether directly or indirectly) by an employer in succession to, or jointly with, another person, a person employed at or from the establishment at any time in the thirteenth base period or, where an election is made, at any time during that part of the alternative thirteenth base period which precedes the date upon which an assessment notice is first served under Article 3, shall be deemed, for the purposes of this Order, to have been so employed by the employer carrying on the said establishment on 1st September 1977.

(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 thirteenth 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.

(3) Subject to the provisions of this Article, the amount of the levy imposed on an employer in respect of a construction establishment shall be equal to 0·9 per centum of the emoluments of —

(*a*) all persons employed by the employer at or from that establishment—

(i) in the thirteenth base period; or

(ii) where an election is made in accordance with the provisions of paragraph (4), in the alternative thirteenth base period;

(*b*) all persons deemed to have been so employed under the provisions of Article 1(3).

(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) The amount of the levy imposed in respect of a construction establishment that ceases to carry on business in the thirteenth 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.

(6) 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.

Payment of the levy

4.—(1) Subject to the provisions of this Article and of Articles 5 and 6 the amount of each assessment appearing in an assessment notice served by the Board shall be payable to the Board in two equal instalments, and the said instalments shall be due respectively one month and five months after the date of the notice.

(2) Where an election has been made the amount of the assessment appearing in each assessment notice shall be payable to the Board in one instalment due one month after the date of the notice.