1976 No. 163

INDUSTRIAL TRAINING

Industrial Training Levy (Road Transport Industry) Order (Northern Ireland) 1976

Made . . . . . *24th May* 1976

Coming into operation . . . . . *1st July* 1976

The Department of Manpower Services, after approving proposals submitted by the Road Transport Industry Training Board for the imposition of a further levy on employers in the road transport 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 (Road Transport Industry) Order (Northern Ireland) 1976 and shall come into operation on 1st July 1976.

(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 Road Transport Industry Training Board established under the Industrial Training (Road Transport Board) Order (Northern Ireland) 1967(**c**);

"business" means any activities of industry or commerce;

"the Department" means the Department of Manpower Services;

"election" means an election, under the provisions of Article 2(4)(*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 ninth base period;

"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 road transport industry at any time in the ninth 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 (4) to have been in, his employment in the ninth base period or, where an election is made, the alternative ninth base period is less than £5,000 or in the case of two or more road transport establishments where the sum of the emoluments of all the persons employed in all of such establishments is less than £5,000;

(**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.) 1967 No. 30 (p. 41) as amended by S.R. & O. (N.I.) 1967 No. 236 (p. 852) and S.R. & O. (N.I.) 1973 No. 258 (I, p. 1302)

"the industrial training order" means the Industrial Training (Road Transport Board) Order (Northern Ireland) 1967;

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

"the ninth base period" means the year that commenced on 6th April 1975 and "the alternative ninth base period" means the year that commenced on 6th April 1976;

"the ninth levy period" means the year commencing on 1st August 1976;

"notice" means a notice in writing;

"road transport activities" means the activities specified in paragraph 1 of Schedule 1 to the industrial training order as the activities of the road transport industry;

"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 ninth base period, or, being an establishment that commenced to carry on business in the ninth 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 ninth base period;

"the 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 order, 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) In the case where a road transport 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 ninth base period or, in any case where an election is made, at any time during that part of the alternative ninth 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 August 1976.

(5) 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 ninth 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 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) For the purposes of this Article no regard shall be had to the emoluments of any person employed wholly in the supply of food or drink for immediate consumption.

(4) 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 (5) or (6) of the emoluments of—

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

(i) in the ninth base period; or

(ii) where an election is made in accordance with the provisions of paragraph (7) in the alternative ninth base period;

(*b*) all persons deemed to have been so employed under the provisions of Article 1(4).

(5) In the case of a road transport establishment engaged in road transport activities specified in sub-paragraphs (*e*), (*f*), (*g*), (*i*), (*j*), (*l*) and (*m*) of paragraph 1 of Schedule 1 to the industrial training order 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 1 per centum of the emoluments.

(6) In the case of a road transport establishment engaged in road transport activities specified in sub-paragraphs (*a*), (*b*), (*c*), (*d*), (*h*), (*k*), (*n*) and (*o*) of paragraph 1 of Schedule 1 to the industrial training order 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 0·8 per centum of the emoluments.

(7) 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.

(8) The amount of the levy imposed in respect of a road transport establishment that ceases to carry on business in the ninth levy period shall be in the same proportion to the amount that would otherwise be due under paragraph (4) 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.

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 five 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.