

1973, No. 258

[C]

INDUSTRIAL TRAINING**Road Transport Industry Training Board**

ORDER, DATED 30TH JULY 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER THE INDUSTRIAL TRAINING ACT (NORTHERN IRELAND) 1964.

The Ministry of Health and Social Services on behalf of the Secretary of State, after consultation with the Road Transport Industry Training Board and with organisations and associations of organisations appearing to it to be representative respectively of substantial numbers of employers engaging in the activities hereinafter mentioned and of substantial numbers of persons employed in those activities and with the bodies established for the purpose of carrying on under public ownership industries in which the said activities are carried on to a substantial extent and in exercise of the powers conferred by section 10 of the Industrial Training Act (Northern Ireland) 1964(a) 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 (Road Transport Board) Order (Northern Ireland) 1973 and shall come into operation on 1st August 1973.

(2) In this Order—

“the Act” means the Industrial Training Act (Northern Ireland) 1964;

“the Board” means the Road Transport Industry Training Board;

“levy Order” includes the Industrial Training Levy (Road Transport Industry) Order (Northern Ireland) 1968(b), the Industrial Training Levy (Road Transport Industry) Order (Northern Ireland) 1969(c), the Industrial Training Levy (Road Transport Industry) Order (Northern Ireland) 1970(d), the Industrial Training Levy (Road Transport Industry) Order (Northern Ireland) 1971(e) and the Industrial Training Levy (Road Transport Industry) Order (Northern Ireland) 1972(f);

“the 1972 Order” means the Industrial Training (Road Transport Board) (Amendment) Order (Northern Ireland) 1972(g);

“the principal Order” means the Industrial Training (Road Transport Board) Order (Northern Ireland) 1967(h).

Revocation

2. The 1972 Order is hereby revoked.

(a) 1964. c. 18 (N.I.).

(b) S.R. & O. (N.I.) 1968, No. 164.

(c) S.R. & O. (N.I.) 1969, No. 251.

(d) S.R. & O. (N.I.) 1970, No. 165.

(e) S.R. & O. (N.I.) 1971, No. 246.

(f) S.R. & O. (N.I.) 1972, No. 148.

(g) S.R. & O. (N.I.) 1972, No. 362.

(h) S.R. & O. (N.I.) 1967, No. 30, as amended by S.R. & O. (N.I.) 1967, No. 236.

Activities of the Board

3. The activities in relation to which the Board exercises the functions conferred by the Act upon industrial training boards shall, in lieu of the activities specified in Schedule 1 to the principal Order (as amended by the 1972 Order) be the activities specified in the Schedule to this Order, and accordingly in the principal Order the latter Schedule shall be substituted for the former Schedule.

Transitional provisions

4.—(1) The chairman and other members of the Board on the day upon which this Order comes into operation shall continue to be members of the Board and to hold and vacate their offices in accordance with the terms of the instruments appointing them to be members.

(2) The provisions of this Order shall not—

- (a) extend the operation of a levy Order;
- (b) affect the operation of a levy Order in relation to the assessment of an employer within the meaning of that Order in respect of an establishment that was engaged in the relevant levy period wholly or mainly in activities included in the Schedule to this Order;
- (c) affect the operation of any assessment notice served by the Board under the provisions of a levy Order before the day upon which this Order comes into operation or any appeal or other proceedings arising out of any such notice.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 30th day of July 1973.

(L.S.)

W. Bell,

Assistant Secretary.

SCHEDULE

The Road Transport Industry

1. Subject to the provisions of this Schedule, the activities of the road transport industry are the following activities in so far as they are carried out in Northern Ireland:—

- (a) the carriage of passengers by motor vehicles on roads for hire or reward;
- (b) the carriage or haulage of goods by goods vehicles on roads for hire or reward;
- (c) the letting out on hire (with or without the services of the drivers) of motor vehicles for the conveyance of persons or of goods vehicles for the carriage or haulage of goods;
- (d) arranging by way of business the transport of goods by goods vehicles on roads;
- (e) the manufacture or fitting out of vehicle bodies;
- (f) the repair of motor vehicles or goods vehicles or the repair of vehicle bodies;
- (g) the collection of motor vehicles or goods vehicles and their delivery by road by way of business;
- (h) giving instruction by way of business in the driving of motor vehicles or goods vehicles;
- (i) dealing in motor vehicles or goods vehicles;
- (j) selling by retail, motor spirit, diesel fuel or lubricating or other oils for use in motor vehicles or goods vehicles;
- (k) dealing (not being selling by retail) in components, replacements, spare parts or accessories (not being tyres) for motor vehicles or goods vehicles;
- (l) dealing in, or letting out on hire, transport service equipment;
- (m) dealing in, letting out on hire or the repair by way of business of, agricultural machinery and equipment;
- (n) the removal of furniture by way of business;
- (o) public warehousing;
- (p) any activities (other than those above mentioned) being—
 - (i) related activities incidental or ancillary to principal activities of the road transport industry; or
 - (ii) activities undertaken in the administration, control or direction of one or more establishments, being establishments engaged wholly or mainly in principal activities of that industry, in related activities incidental or ancillary thereto, or in the administration, control or direction of one or more other establishments engaged in such principal or related activities; and carried out, in either case, by the employer engaged in those principal activities or, where that employer is a company, by the company or by an associated company of the company;
- (q) any activities of industry or commerce (other than road transport activities) carried out at or from an establishment mainly engaged—
 - (i) in road transport activities; or
 - (ii) in road transport activities and in activities described in the Appendix but to a greater extent in road transport activities than in activities described in that Appendix in relation to any one industry.

2. Notwithstanding anything contained in this Schedule, there shall not be included in the activities of the road transport industry:—

- (a) the activities of any establishment engaged—
 - (i) mainly in activities not being road transport activities or activities described in the Appendix; or
 - (ii) to a less extent in road transport activities than in activities described in that Appendix in relation to any one industry;

- (b) the activities of any establishment engaged wholly or mainly in related activities, being activities—
- (i) incidental or ancillary to the activities of one or more establishments (in this sub-paragraph hereafter referred to as “the principal establishment”) engaged wholly or mainly in any activities not being principal activities of the road transport industry; and
 - (ii) carried out by the employer carrying on the principal establishment or where that employer is a company, by the company or by an associated company of the company;
- (c) the activities of any establishment engaged wholly or mainly in business as follows—
- (i) in banking, finance or insurance;
 - (ii) in funeral undertaking;
 - (iii) in the manufacture or fitting out of vehicle bodies where the employer is engaged in the manufacture of motor vehicles or where the vehicle bodies are manufactured or fitted out to the order of an employer engaged in the manufacture of motor vehicles;
 - (iv) in the manufacture, fitting out or repair of caravans; or
 - (v) in the operation of taxi-cabs or private car hire;
- (d) the activities of—
- (i) any body or person authorised by or under any enactment to carry on any undertaking for the supply of electricity, gas or water, or any dock or harbour;
 - (ii) a marketing board; or
 - (iii) the Post Office;
- (e) any activities of a local authority or of a joint board or joint committee of such authorities, not being activities carried out for the purposes of a passenger road transport service provided by the authority, board or committee;
- (f) the activities of any company, association or body that is required by its constitution to apply its profits, if any, or other income in promoting its objects and is prohibited thereby from paying any dividend to its members, and that has for its sole or principal object or among its principal objects the provision of facilities for any of the purposes mentioned in section 15(1) of the Disabled Persons (Employment) Act (Northern Ireland) 1945(i) (which relates to the provision for registered persons who are seriously disabled of work or training);
- (g) any work, occupation or training that is provided in accordance with arrangements made by a local authority under the Disabled Persons (Employment) Act (Northern Ireland) 1960(j) or any other enactment that authorises or requires the provision of arrangements for persons suffering from illness, severe physical defect or disability or from mental disorder, or for persons who have been suffering from illness or whose care is undertaken with a view to preventing them from becoming ill, or for old people;
- (h) the activities of a charity;
- (i) dock work performed by a dock worker;
- (j) any activities in agriculture; or
- (k) the supply of food or drink for immediate consumption.

3. In this Schedule:—

“agricultural machinery and equipment” does not include lawn mowers but save as aforesaid means any machinery, plant, equipment or appliance designed primarily or adapted for use in agriculture;

“agriculture” has the same meaning as in section 43(1) of the Agriculture Act (Northern Ireland) 1949(k);

(i) 1945. c. 6.
(j) 1960. c. 4.

(k) 1949. c. 2.

- “business” means a trade or business carried on for the purpose of gain;
- “caravan” means a vehicle (not being a motor vehicle or railway rolling stock) which is designed for use, by one or more persons, as accommodation for living or business purposes;
- “charity” has the same meaning as in section 360 of the Income and Corporation Taxes Act 1970(l);
- “company” includes any body corporate, and “subsidiary” has the same meaning as by virtue of section 148 of the Companies Act (Northern Ireland) 1960(m) it has for the purposes of that Act;
- “dealing” means by way of business and in the capacity of principal, agent or broker—
- (i) in relation to products situate in Northern Ireland, buying or selling such products;
 - (ii) in relation to products situate elsewhere, importing such products into Northern Ireland;
- but does not include any transaction in the nature of an auction;
- “dock worker” has the same meaning as in section 6(8) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(n);
- “goods” includes goods or burden of any description;
- “goods vehicles” means motor vehicles constructed or adapted for use for the carriage of goods, or trailers so constructed or adapted, and “trailers” means vehicles drawn by motor vehicles;
- “letting out on hire” does not include a letting under a hire purchase agreement;
- “local authority” means a district council or a borough within the meaning of the Local Government Act (Northern Ireland) 1972(o);
- “manufacture” includes assembly and any process or operation incidental or appertaining to manufacture or assembly;
- “marketing board” means the British Wool Marketing Board, the Seed Potato Marketing Board for Northern Ireland, the Pigs Marketing Board for Northern Ireland or the Milk Marketing Board for Northern Ireland;
- “motor vehicles” means mechanically propelled vehicles intended or adapted for use on roads, but does not include implements for cutting grass that are not capable of being used or adapted for any other purpose, or contractors’ plant; and for the purposes of this definition “contractors’ plant” means machinery, plant or equipment of a kind intended for use in operations on the site of any building work or civil engineering work, but does not include lorries, ready-mixed concrete vehicles or other mechanically propelled vehicles mainly used for the carriage of goods on roads;
- “office premises” has the same meaning as in section 1(2) of the Office and Shop Premises Act (Northern Ireland) 1966(p);
- “petroleum” means crude oil, bitumen obtained therefrom, liquefied petroleum gas, aviation fuel, motor spirit, kerosene, white spirit, diesel fuel, fuel oil, gas oil, lubricating oil or any similar product;
- “principal activities of the road transport industry” means activities which, subject to the provisions of paragraph 2, are specified in paragraph 1, other than sub-paragraphs (p) and (q) thereof, as activities of the road transport industry;
- “private car hire” means the provision, together with the services of a driver, of a motor vehicle (other than a taxi-cab) which is designed to carry less than eight passengers;

(l) 1970. c. 10.

(m) 1960. c. 22.

(n) 1965. c. 19 (N.I.).

(o) 1972. c. 9 (N.I.).

(p) 1966. c. 26 (N.I.).

“public warehousing” means keeping any premises (not being a public garage or parking place, a caravan site, or a place where boats are anchored, laid up or moored) wholly or mainly for the purpose of the storage of goods for reward for persons other than the occupier or, where the occupier is a company, for persons other than the company or an associated company of the company, but does not include keeping any premises wholly or mainly for the storage of petroleum, or for the custody of animals or other living creatures or as a cloakroom, safe depository or cold store;

“related activities” means any of the following activities, that is to say—

- (i) research or development;
- (ii) design or drawing;
- (iii) buying, selling, letting out on hire, testing, advertising, packing, distribution, transport or any similar operations;
- (iv) operations of a kind performed at booking offices, other office premises or laboratories, or at stores, warehouses, or similar places;
- (v) cleaning, washing or garaging vehicles, or carrying out running repairs or minor adjustments thereto;
- (vi) training of employees or apprentices;

“repair” (except in relation to the expression “running repairs”) means all or any of the operations of repair, reconditioning, painting, paint spraying, modification, alteration, conversion, maintenance, cleaning, washing or carrying out running repairs or minor adjustments;

“road” means a highway or any other road to which the public has access;

“road transport activities” means any one or more of the principal activities of the road transport industry and the activities included in that industry by virtue of paragraph 1(p);

“selling by retail” in relation to any products means selling such products by way of business to a person buying otherwise than for the purpose of re-sale, use in manufacture or processing;

“taxi-cab” means a motor vehicle standing or plying for hire;

“transport service equipment” means plant or equipment of a kind used in the testing or analysis of performance of motor vehicles or goods vehicles, in their repair or in their recovery when damaged;

“vehicle bodies” includes motor cycle sidecars.

4.—(1) For the purposes of this Schedule two companies shall be taken to be associated companies if one is a subsidiary of the other or both are subsidiaries of a third company and “associated company” shall be construed accordingly.

(2) For the purposes of this Schedule, goods shall not be deemed to be carried or hauled for hire or reward if—

- (a) they are goods sold, used or let on hire or hire purchase in the course of a business carried on by the carrier or haulier thereof and are being delivered or collected by him; or
- (b) they are goods which have been, or are to be, subjected to a process or treatment in the course of a business carried on by the carrier or haulier thereof, and are being delivered or collected by him; or
- (c) they are carried by a person engaged in agriculture in any locality, for or in connection with the business of agriculture carried on by another person in that locality, and the goods vehicle in which they are carried is used by the carrier or haulier for the carriage of goods for or in connection with his agricultural business; or
- (d) they are carried by a person who uses a goods vehicle solely for the collection or delivery of liquid milk (including whole milk, cream, skim milk or buttermilk) not contained in sealed airtight containers;

and for the purposes of this sub-paragraph the references to the carrier or haulier shall be taken to include an associated company of the carrier or haulier, being a company.

APPENDIX

The activities that would be included in an industry specified in Column 1 hereof by virtue of the industrial training order specified in the corresponding entry in Column 2, if the provisions specified in Column 3 were omitted from that order.

Column 1	Column 2	Column 3
The construction industry	The Industrial Training (Construction Board) Order (Northern Ireland) 1964(q)	Schedule 1 Paragraph 1(h)
The engineering industry	The Industrial Training (Engineering Board) Order (Northern Ireland) 1964 as amended by the Industrial Training (Engineering Board) Order (Northern Ireland) 1973(r)	Schedule 1 Paragraph 1(u)
The catering industry	The Industrial Training (Catering Board) Order (Northern Ireland) 1966(s)	Schedule 1 Paragraph 1(c)
The clothing and footwear industry	The Industrial Training (Clothing and Footwear Board) Order (Northern Ireland) 1966(t)	Schedule 1 Paragraph 1(j)
The man-made fibres producing industry	The Industrial Training (Man-made Fibres Producing Board) Order (Northern Ireland) 1966(u)	Schedule 1 Paragraph 1(d)
The textiles industry	The Industrial Training (Textiles Board) Order (Northern Ireland) 1967(v)	Schedule 1 Paragraph 1(31)
The distributive industry	The Industrial Training (Distributive Board) Order (Northern Ireland) 1969(w)	Schedule 1 Paragraph 1(h)
The food and drink industry	The Industrial Training (Food and Drink Board) Order (Northern Ireland) 1969(x)	Schedule 1 Paragraph 1(n)

(q) S.R. & O. (N.I.) 1964, No. 145.

(r) S.R. & O. (N.I.) 1964, No. 146 and S.R. & O. (N.I.) 1973, No. 257.

(s) S.R. & O. (N.I.) 1966, No. 32.

(t) S.R. & O. (N.I.) 1966, No. 130, as amended by S.R. & O. (N.I.) 1966, No. 222.

(u) S.R. & O. (N.I.) 1966, No. 258.

(v) S.R. & O. (N.I.) 1967, No. 29.

(w) S.R. & O. (N.I.) 1969, No. 126, as amended by S.R. & O. (N.I.) 1972, No. 130;

(x) S.R. & O. (N.I.) 1969, No. 165.

EXPLANATORY NOTE

(This note is not part of the Order, but is intended to indicate its general purport.)

This Order re-defines the activities in relation to which the Northern Ireland Road Transport Industry Training Board exercises its functions. The Board was established on 14th February 1967 by the Industrial Training (Road Transport Board) Order (Northern Ireland) 1967.

The principal changes are the inclusions in the road transport industry of—

- (a) the manufacture or fitting out of vehicle bodies;
- (b) the repair of vehicle bodies;
- (c) dealing in, letting out on hire or repairing agricultural machinery and equipment.

There will henceforth be excluded from the industry—

- (a) the activities of an establishment engaged wholly or mainly in selling by wholesale tyres or in the public warehousing of petroleum products;
- (b) the activities of an establishment engaged wholly or mainly in banking, finance or insurance;
- (c) the manufacture or fitting out of vehicle bodies where the employer is a motor vehicle manufacturer or where the vehicle bodies are manufactured or fitted out to the order of a motor vehicle manufacturer;
- (d) the manufacture, fitting out or repair of caravans;
- (e) the operation of taxi-cabs or private car hire;
- (f) the activities of a charity.

The activities of the Post Office and of Marketing Boards are also excluded from the road transport industry.