
DRAFT STATUTORY INSTRUMENTS

1998 No.

**The Industrial Training Levy (Engineering
Construction Board) Order 1998**

Interpretation

- 2.—(1) In this Order unless the context otherwise requires—
- (a) “agriculture” has the same meaning as in section 109(3) of the Agriculture Act 1947⁽¹⁾ or, in relation to Scotland, as in section 85(1) of the Agricultural Holdings (Scotland) Act 1991⁽²⁾;
 - (b) “assessment” means an assessment of an employer to the levy;
 - (c) “the Board” means the Engineering Construction Industry Training Board⁽³⁾, formerly known as the Engineering Industry Training Board;
 - (d) “business” means any activities of industry or commerce;
 - (e) “charity” has the same meaning as in section 506 of the Income and Corporation Taxes Act 1988⁽⁴⁾;
 - (f) “emoluments” means all emoluments assessable to income tax under Schedule E of the Income and Corporation Taxes Act 1988 (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;
 - (g) “employer” (except in article 2(2) of this Order) means a person who is an employer in the engineering construction industry at any time in the thirty-fourth levy period;
 - (h) “the engineering 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 activities of the engineering construction industry;
 - (i) “engineering construction establishment” means an establishment in Great Britain engaged in the thirty-fourth base period wholly or mainly in the engineering construction industry for a total of twenty-seven or more weeks, or being an establishment that commenced to carry on business in the said base period, for a total number of weeks exceeding one half of the number of weeks in the part of the said base period commencing with the day on which business was commenced and ending on the last day thereof;
 - (j) “engineering construction activities” 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 activities of the engineering construction industry by virtue of paragraph 1(a) of that Schedule and any related or administrative activities of a kind to which paragraph 1(c) of that Schedule applies undertaken in relation thereto;

(1) 1947 c. 48.

(2) 1991 c. 55.

(3) The Board was re-named by S.I.1991/1305.

(4) 1988 c. 1.

- (k) “establishment” means an engineering construction establishment or an establishment comprising engineering construction activities;
 - (l) “establishment comprising engineering construction activities” means an establishment at or from which persons were employed in the thirty-fourth base period in engineering construction activities for a total of twenty-seven or more weeks, or being an establishment that commenced to carry on business in the said base period, for a total number of weeks exceeding one half of the number of weeks in the part of the said base period commencing with the day on which business was commenced and ending on the last day thereof, but does not include an engineering construction establishment;
 - (m) “the industrial training order” means the Industrial Training (Engineering Board) Order 1964(5);
 - (n) “labour-only agreement” means any agreement or arrangement, either written or oral, not being a contract of service or of apprenticeship, made between an employer and any other person or persons, the purpose of which is wholly or mainly the provision of services (including the incidental use of tools) of such person or persons or of any other person or persons to the employer in his trade or business;
 - (o) “the levy” means the levy imposed by the Board in respect of the thirty-fourth levy period;
 - (p) “notice” means a notice in writing;
 - (q) “site employee” means an employee the activities of whose employment take place wholly or mainly at a site where activities falling under paragraph 1(a) of Schedule 1 to the industrial training order are carried on;
 - (r) “the thirty-fourth levy period” means the period commencing with the day upon which this Order comes into force and ending on 31st August 1998;
 - (s) “the thirty-fourth base period” means the period of twelve months that commenced on 6th April 1997.
- (2) In reckoning the amount of emoluments for the purpose of this Order no regard shall be had to the emoluments of any person—
- (a) undergoing a course of training as a seagoing officer or rating under an agreement in writing with an employer in the shipping industry, or with any organisation of employers in that industry or with any association of such organisations;
 - (b) engaged wholly in agriculture; or
 - (c) engaged wholly in the supply of food or drink for immediate consumption;
 - (d) holding office as a company director and having no contract of service.
- (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.
- (4) For the purposes of this Order in the case of an establishment that is taken over (whether directly or indirectly) by an employer in succession to, or jointly with another person, the person or persons carrying on the establishment on the day upon which this Order comes into force shall be treated as the employer of any person who was employed at any time in the period of twelve months that commenced on 6th April 1997 at or from the establishment under a contract of service or of apprenticeship or under a labour-only agreement and that employer shall be assessed to levy in accordance with article 3 of this Order.

(5) This Order applies to the activities of the engineering construction industry in so far as they are carried out in Great Britain or in so far as they are for such purposes as are relevant to or in relation to employment to which the Employment Protection (Offshore Employment) Order 1976⁽⁶⁾ applies.

⁽⁶⁾ S.I. [1976/766](#) (the whole of the Industrial Training Act 1982 has been applied by the Employment Protection (Offshore Employment) Order 1976 for such purposes as are relevant to or in relation to persons in employment to which that Order applies (article 3 and Part 1 of the Schedule, paragraph 1); relevant amending instruments are S.I. [1977/588](#), [1981/208](#)).