
DRAFT STATUTORY INSTRUMENTS

2004 No.

The Industrial Training Levy (Engineering Construction Board) Order 2004

Interpretation

2.—(1) In this Order—

- (a) “assessment” means an assessment of an employer to the levy;
- (b) “the base period” means the period of twelve months that commenced on 6 April 2003;
- (c) “the Board” means the Engineering Construction Industry Training Board (1), formerly known as the Engineering Industry Training Board;
- (d) “business” means any activities of industry or commerce;
- (e) “emoluments” means all salaries, fees, wages, perquisites and profits whatsoever, except for pensions;
- (f) “employer” (except in article 4(4)(a)(i) below) means a person who is an employer in the engineering construction industry at any time in the levy period;
- (g) “the engineering construction industry” means any one or more of the activities which are specified in paragraph 1 of the Schedule to the industrial training order (but subject to paragraph 2 of that Schedule) as activities of the engineering construction industry;
- (h) “the industrial training order” means the Industrial Training (Engineering Board) Order 1964(2);
- (i) “labour-only agreement” means any agreement or arrangement, either written or oral, not being a contract of service or apprenticeship, made between an employer and any other person or persons, the purpose of which is wholly or mainly the provision of services (including any incidental use of tools) of such person or persons or of any other person or persons to the employer in his trade or business;
- (j) “the levy” means the levy imposed by the Board in respect of the levy period;
- (k) “the levy period” means the period commencing with the day on which this Order comes into force and ending on 31st August 2004;
- (l) “notice” means a notice in writing;
- (m) “site employee” means an employee (including a person employed under a labour-only agreement) 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, head office staff are excluded;

(2) 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.

(1) The Board was re-named by [S.I. 1991/1305](#).

(2) [S.I. 1964/1086](#), amended by [S.I. 1991/1305](#).

(3) 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 base period 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 4 below.

(4) 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 carried out in relation to employment to which the Employment Protection (Offshore Employment) Order 1976(3) applies.

(3) [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 I of the Schedule, paragraph 1); relevant amending instruments are [S.I. 1977/588](#) and [1981/208](#).