

1990 No. 1873

EMPLOYMENT AND TRAINING

**The Industrial Training (Construction Board) Order 1964
(Amendment) Order 1990**

<i>Made</i> - - - -	<i>13th September 1990</i>
<i>Laid before Parliament</i>	<i>28th September 1990</i>
<i>Coming into force</i>	<i>19th October 1990</i>

The Secretary of State, in exercise of the powers conferred on him by section 1(1) and (7) of the Industrial Training Act 1982(a) and of all other powers enabling him in that behalf, after the carrying out by him of consultations in accordance with section 1(4) of that Act, hereby makes the following Order:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Industrial Training (Construction Board) Order 1964 (Amendment) Order 1990 and shall come into force on 19th October 1990.

(2) In this Order—

- (a) “the Act” means the Industrial Training Act 1982;
- (b) “the Board” means the Construction Industry Training Board;
- (c) “the principal Order” means the Industrial Training (Construction Board) Order 1964(b).

Activities of the Board

2. 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, be the activities specified in Schedule 1 to this Order, and accordingly in the principal Order the latter Schedule shall be substituted for the former Schedule.

Transitional Provisions

3.—(1) The Chairman and other members of the Board on the day upon which this Order comes into force 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 in the construction industry as defined in that 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 force or any appeal or other proceedings arising out of any such notice.

(3) In paragraph (2) of this article, the expression “levy order” means any one of the levy orders set out in Schedule 2 to this Order.

(a) 1982 c.10; section 1 was amended by the Employment Act 1989 (c.38), sections 22(4) and 23 and Schedule 4, paragraph 1(4).

(b) S.I. 1964/1079; relevant amending instruments are S.I. 1980/1274, 1982/922, 1990/526.

Revocation

4. The Industrial Training (Construction Board) Order 1980(a) and the Industrial Training (Construction Board) Order 1964 (Amendment) Order 1982(b) are hereby revoked.

Signed by order of the Secretary of State.

Robert Jackson
Parliamentary Under Secretary of State,
Department of Employment

13th September 1990

Article 3

SCHEDULE 1

THE CONSTRUCTION INDUSTRY

1. Subject to the provisions of this Schedule, the activities of the construction industry are the following activities in so far as they are carried out in Great Britain:—

(a) all operations in—

- (i) the construction, alteration, repair or demolition of a building or part of a building;
- (ii) the construction or demolition of a railway-line, siding or monorail;
- (iii) the construction, structural alteration, repair or demolition of any aerodrome, airport, bridge, road, viaduct, dock, harbour, pier, quay, wharf, coast protection, river or drainage work, aqueduct, canal, inland navigation, reservoir, waterworks, bore-hole, well (other than an oil well), filter bed, sewage works, sewer, cooling tower or pond, tunnel, heading, adit, chimney, furnace, carbonising or gas making or gas treatment works, nuclear or thermal power station, hydro-electric station, electric line or any structure designed for its support, cable trench or duct, oil refinery, pipeline or defence installation;
- (iv) the sinking of a shaft or bore-hole in a mine of coal, stratified ironstone, shale or fireclay, or the construction of a road below ground in such a mine;
- (v) the construction or repair of a swimming pool or other bathing place, or of a playing field or ground for sporting or recreational purposes, or the laying out of a cemetery;
- (vi) the preparation of the site or the laying down of a foundation or sub-structure in connection with any of the above-mentioned operations or with the erection of structural metalwork;
- (vii) the manufacture, wholly or mainly from concrete or cast stone, on the site of any building work or civil engineering work and for the purposes of any operations above-mentioned carried out on the site of the building work or civil engineering work, of any of the following products, that is to say, industrialised building components or sections, prefabricated buildings or sections of buildings, beams, columns, piles, caissons, tunnel segments or other civil engineering sections or structures or parts of structures;
- (viii) the erection, repair or dismantling of walls, fencing, hoardings or scaffolding;
- (ix) the working of bituminous coal, cannel coal or anthracite by open-cast operations or the screening, washing or other preparation of coal on the site of opencast workings;
- (x) the restoration of land affected by the working of coal by opencast operations, or of land which has been excavated in the course of winning or working ironstone by opencast operations;

(b) the cutting and bending of reinforcing steel for the purposes of any operations above-mentioned;

(c) the manufacture of—

- (i) industrialised building components or sections or of prefabricated buildings or sections of buildings, being components, sections or buildings made wholly or mainly from wood or framed in wood;
- (ii) composite framed or laminated woodwork absorbing calculated stresses applied direct or from attached non-loadbearing portions of a building;
- (iii) doors, window frames, built-in storage units, stairs or curtain walling being articles wholly or mainly of wood;
- (iv) bank, church or laboratory joinery or joinery of any other kind;

(a) S.I. 1980/1274.

(b) S.I. 1982/922.

- (d) the construction of shop, office or similar fittings on the premises on which they are to be installed, or the prefabrication elsewhere of such fittings by the employer engaged in the installation;
- (e) the erection or dismantling of exhibition stands;
- (f) the installation, testing, inspection, maintenance or repair of contractors' plant, or the letting out on hire of such plant or of scaffolding;
- (g) the manufacture of bricks from clay or calcium silicate for building purposes but excluding bricks made for refractory purposes;
- (h) the preparation of stone for building purposes;
- (i) any activities (other than those above-mentioned) being—
 - (i) related activities incidental or ancillary to principal activities of the construction 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;

- (j) any activities of industry or commerce (other than construction activities) carried out at or from an establishment mainly engaged:—
 - (i) in construction activities; or
 - (ii) in construction activities and in activities described in the Appendix to this Schedule, but to a greater extent in construction 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 construction industry:—

- (a) the activities of any establishment engaged—
 - (i) mainly in activities not being construction activities or activities described in the Appendix to this Schedule; or
 - (ii) to a less extent in construction 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 construction 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 the activities following or any of them, that is to say—
 - (i) the erection of the main framework of buildings, being framework of metallic construction;
 - (ii) the erection of other structures consisting wholly or mainly of metal (not being structures forming part of a building, electric lines or structures designed for the support thereof, walls, fencing, hoardings, exhibition stands, scaffolding or contractors' plant);
 - (iii) the assembly, construction, erection, installation, fitting, testing, inspection, thermal insulation, repair or replacement on site of any chemical, electrical or mechanical apparatus, machinery or plant of a chemical works, gas making or gas treatment works, nuclear or thermal power station, hydro-electric station, oil refinery or oil terminal or other apparatus, machinery or plant concerned with exploration for or exploitation of oil or gas, metal smelter, steel mill, paper mill or brewery;
 - (iv) the planning, designing, commissioning or procuring by way of contract or otherwise of any apparatus, machinery or plant mentioned in sub-paragraph (iii) above carried on in association with any activity mentioned in that sub-paragraph or in association with any project for such an activity;
 - (v) the supervision of the assembly, construction, erection, installation, fitting, testing, inspection, repair or replacement of any apparatus, machinery or plant mentioned in sub-paragraph (iii) above when carried out on site;

- (vi) the installation, testing, inspection or repair of machinery or plant (other than contractors' plant);
 - (vii) the manufacture, wholly or mainly from concrete and tiles or from stone set in concrete, of fire-places;
 - (viii) the application of any form of chemical treatment to wood, being part of a building, for preventing or remedying the presence of insects, mites, fungi or marine organisms;
 - (ix) the assembly, installation, cleaning or repair of venetian blinds;
 - (x) the making of inside or outside blinds or awnings or the installation of such blinds by the manufacturer thereof;
 - (xi) the laying out of golf courses, bowling greens or gardens;
 - (xii) any operation in thatching;
 - (xiii) any operation in terazzo-mosaic work;
 - (xiv) the quarrying, dressing or fitting of Collyweston slates;
 - (xv) the construction or repair of bakers' ovens;
 - (xvi) the preparation of stone for monumental purposes; or
 - (xvii) banking, finance or insurance;
 - (xviii) the provision or continued provision for any building or other construction or work or operations carried out on any site referred to in paragraph 1 (a)(i) to (vii) of the Schedule of water, gas, electricity, lighting, heating, ventilation or air-conditioning, where undertaken in, upon, above or under the building or the close, curtilage or precincts thereof, or such construction or work or operations on any such site;
- (d) the activities of—
- (i) a harbour authority within the meaning of the Harbours Act 1964(a) when acting in that capacity;
 - (ii) the United Kingdom Atomic Energy Authority;
- (e) the activities of a local authority;
- (f) the activities of a charity;
- (g) 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 1944(b) (which relates to the provision for registered persons who are seriously disabled of work or training);
- (h) any work, occupation or training that is provided in accordance with arrangements made by a local authority under the Disabled Persons (Employment) Act 1958(c) 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;
- (i) any activities in agriculture; or
- (j) the supply of food or drink for immediate consumption.

3. In this Schedule, unless the context otherwise requires:—

“agriculture” has the same meaning as in section 109(3) of the Agriculture Act 1947(d) or, in relation to Scotland, as in section 86(3) of the Agriculture (Scotland) Act 1948(e);

“building” includes any erection in the nature of a building;

“charity” has the same meaning as in section 506 of the Income and Corporation Taxes Act 1988(f);

“Clay” includes shale, brick earth and blaes;

“company” includes any body corporate, and “subsidiary” has the same meaning as by virtue of section 736 of the Companies Act 1985(g) it has for the purposes of that Act;

“concrete” includes pre-cast, pre-stressed, reinforced or autoclaved aerated concrete;

“construction activities” means any one or more of the principal activities of the construction industry and the activities included in that industry by virtue of paragraph 1(i) of this Schedule;

(a) 1964 c.40.

(b) 1944 c.10.

(c) 1958 c.33.

(d) 1947 c.48.

(e) 1948 c.45.

(f) 1988 c.1.

(g) 1985 c.6.

“contractors’ plant” means machinery, plant or equipment of a kind used or 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;

“drainage work” does not include drainage by the methods of tile drainage, mole drainage or surface gripping or the construction or maintenance of open or piped farm ditches;

“electric line” means a wire or wires, conductor or other means used for the purpose of conveying, transmitting or distributing electricity, or any apparatus connected therewith;

“letting out on hire” does not include any arrangement in the nature of hire purchase;

“local authority” means—

(a) in relation to England and Wales, a local authority within the meaning of the Local Government Act 1972(a) or the Common Council of the City of London, and includes a joint board or joint committee of such authorities;

(b) in relation to Scotland, a county council, town council or district council and includes any joint board or joint committee of such authorities appointed under any enactment, order or scheme;

“manufacture” includes assembly or any process or operation incidental or appertaining to manufacture or assembly;

“office premises” has the same meaning as in section 1(2) of the Offices, Shops and Railway Premises Act 1963(b);

“pipe-line” does not include a pneumatic despatch tube;

“principal activities of the construction industry” means activities which, subject to the provisions of paragraph 2 of this Schedule, are specified in paragraph 1, other than subparagraphs (i) and (j) thereof, as activities of the construction industry;

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

(a) research, development, design or drawing;

(b) buying, selling, letting out on hire, testing, advertising, packing, distribution, transport or any similar operations;

(c) operations of a kind performed at office premises or laboratories or at stores, warehouses or similar places;

(d) cleaning, washing or garaging vehicles or carrying out running repairs or minor adjustments thereto;

(e) training of employees or apprentices;

“repair” in relation to a building includes maintenance, re-pointing, re-decoration and external cleaning;

“road below ground” does not include an unwalkable outlet;

“shaft” means a shaft the top of which is, or is intended to be, at the surface;

“site of any building work or civil engineering work” means the site of any operations mentioned in heads (i) to (vi) of paragraph 1(a) of this Schedule, and includes any other place occupied temporarily by the person carrying out such operations, being a place where the activities carried out are the manufacture, wholly or mainly from concrete or cast stone and solely for the purposes of the said operations, of any products specified in paragraph 1(a)(vii) of this Schedule.

4.—(1) References in this Schedule to the provisions of any enactment shall be construed as references to those provisions as amended by or under any subsequent enactment.

(2) 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.

(a) 1972 c.70.

(b) 1963 c.41.

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 where specified in Column 3 were omitted from that order.

Column 1	Column 2	Column 3
The engineering industry	The Industrial Training (Engineering Board) Order 1964(a)	Schedule 1 Paragraph 1(n)
The agricultural, horticultural and forestry industry	The Industrial Training (Agricultural, Horticultural and Forestry Board) Order 1966(b)	Schedule 1 Paragraph 1(d)
The road transport industry	The Industrial Training (Road Transport Board) Order 1966(c)	Schedule 1 Paragraph 1(n)
The hotel and catering industry	The Industrial Training (Hotel and Catering Board) Order 1966(d)	Schedule 1 Paragraph 1(e)
The offshore petroleum industry	The Industrial Training (Petroleum Board) Order 1967(e)	
The plastics processing industry	The Industrial Training (Rubber and Plastics Processing Board) Order 1967(f)	Schedule 1 Paragraph 1(j)
The clothing and allied products industry	The Industrial Training (Clothing and Allied Products Board) Order 1969(g)	Schedule 1 Paragraph 1(j)

SCHEDULE 2

Article 3(3)

Levy Orders

References

Industrial Training Levy (Construction Board) Order 1982	S.I. 1982/1869.
Industrial Training Levy (Construction Board) Order 1983	S.I. 1983/1956.
Industrial Training Levy (Construction Board) Order 1984	S.I. 1984/2004.
Industrial Training Levy (Construction Board) Order 1985	S.I. 1985/1977.
Industrial Training Levy (Construction Board) Order 1987	S.I. 1987/29.
Industrial Training Levy (Construction Board) Order 1988	S.I. 1988/90.
Industrial Training Levy (Construction Board) Order 1989	S.I. 1989/274.
Industrial Training Levy (Construction Board) Order 1990	S.I. 1990/557.

- (a) S.I. 1964/1086, amended by S.I. 1980/1273.
 (b) S.I. 1966/969, amended by S.I. 1970/1886, 1975/985.
 (c) S.I. 1966/1112, amended by S.I. 1982/664.
 (d) S.I. 1966/1347, amended by S.I. 1969/1405.
 (e) S.I. 1967/648, amended by S.I. 1982/921.
 (f) S.I. 1967/1062, amended by S.I. 1979/1595, 1982/923.
 (g) S.I. 1969/1375, amended by S.I. 1982/920.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order redefines the activities in relation to which the Construction Industry Training Board (the Board) exercises its functions. The Board was established on 21st July 1964 by the Industrial Training (Construction Board) Order 1964 (the 1964 Order). Its activities were redefined by the Industrial Training (Construction Board) Order 1980 (the 1980 Order), the Industrial Training (Construction Board) Order 1964 (Amendment) Order 1982 (the 1982 Order) and the Electricity Act 1989 (Consequential Modifications of Subordinate Legislation) Order 1990.

The effect of this Order is that—

- (a) the activities set out in paragraph 1(a)(viii) of Schedule 1 to the 1964 Order (ie all operations in the provision or continued provision for any building or other construction or on the site of any building work or civil engineering work of water, gas, electricity, lighting, heating, ventilation or air-conditioning, being operations undertaken in, upon, above or under the building or the close, curtilage or precincts thereof, or such construction or work or any such site) are excluded from the scope of the Board;
- (b) the activities of the companies and bodies mentioned in paragraph 2(d)(i) to (iii) and (v) of Schedule 1 to the 1964 Order (the activities not included in the construction industry) are removed from that paragraph;
- (c) transitional provisions are made in article 3 in respect of the Chairman and other members of the Board and the levy orders set out in Schedule 2 to this Order; and
- (d) the 1980 Order and the 1982 Order are revoked.