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STATUTORY INSTRUMENTS

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**2002 No. 302**

**The Industrial Training Levy (Engineering  
Construction Board) Order 2002**

**Imposition of levy**

4.—(1) The levy to be imposed by the Board on employers in respect of the levy period 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 leviable 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 treated for the purposes of that assessment as constituting one establishment.

(3) Subject to the exemptions in article 5 the amount to be assessed by way of levy in respect of each leviable establishment shall be the aggregate of—

1.5 per cent. of (A – B – C)

and

0.18 per cent. of (D – E – F)

, where—

A is the total emoluments of all the persons who are site employees employed by the employer in the base period at or from the establishment,

B is the sum of all payments (including payments for the incidental use of tools) made by the employer during the base period under labour-only agreements for services rendered to him by site employees,

C is the sum of all payments (including payments for the incidental use of tools) received by the employer during the base period under labour-only agreements for services rendered by him or on his behalf by site employees,

D is the total emoluments of all the persons who are off site employees employed by the employer in the base period at or from the establishment,

E is the sum of all payments (including payments for the incidental use of tools) made by the employer during the base period under labour-only agreements for services rendered to him by off site employees,

F is the sum of all payments (including payments for the incidental use of tools) received by the employer during the base period under labour-only agreements for services rendered by him or on his behalf by off-site employees.

(4) For the purposes of paragraph (3)—

(a) in the case of an establishment mentioned in article 3(1)(a), there shall be left out of account—

(i) any person 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,
- (ii) any person engaged wholly in agriculture (within the meaning of section 109(3) of the Agriculture Act 1947<sup>(1)</sup> or, as the case may be, section 85(1) of the Agricultural Holdings (Scotland) Act 1991<sup>( )</sup>),
  - (iii) any person engaged wholly in the supply of food or drink for immediate consumption;
- (b) in the case of an establishment mentioned in article 3(1)(b), there shall be left out of account all persons who are not employed at or from the establishment wholly or mainly in any of the activities such as are mentioned in paragraph 1(c) of the Schedule to the industrial training order; and
- (c) a company director remunerated solely by fees shall be left out of account but otherwise a company director (including a person occupying a position of director by whatever name he is called) shall be treated as employed.

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<sup>(1)</sup> 1947 c. 48.