
STATUTORY INSTRUMENTS

1991 No. 1305

EMPLOYMENT AND TRAINING

The Industrial Training (Engineering Construction Board) Order 1991

<i>Made - - - -</i>	<i>3rd June 1991</i>
<i>Laid before Parliament</i>	<i>14th June 1991</i>
<i>Coming into force</i>	<i>23rd July 1991</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 (Engineering Construction Board) Order 1991 and shall come into force on 23rd July 1991.

(2) In this Order—

- (a) “the Act” means the Industrial Training Act 1982;
- (b) “the Board” mean the Board hitherto known as the Engineering Industry Training Board;
- (c) “the principal Order” means the Industrial Training (Engineering Board) Order 1964(b)

Re-naming of the Board

2. The Board shall henceforth be known as the Engineering Construction Industry Training Board and accordingly any reference to the Board in the principal Order shall be taken to be a reference to the Engineering Construction Industry Training Board and any reference to the engineering industry as a reference to the engineering construction industry.

Activities of the Board

3. The activities in relation to which the Engineering Construction Industry Training Board exercises the functions conferred by the Act upon industrial training boards shall, instead 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.

(a) 1982 c.10; section 1 was amended by the Employment Act 1989 (c.38), sections 22(4) and 23 and Schedule 4, para 1(4). (b) S.I. 1964/1086; relevant amending instruments are S.I. 1980/1273, 1990/526.

Transitional Provisions

4. — (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 Engineering Construction Industry Training 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 engineering 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) The change of name of the Board shall not affect any right or obligation of the Board or of any other person and any pending legal proceedings may be continued by or against the Board notwithstanding its change of name.

(4) 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.

Revocation

5. The Industrial Training (Engineering Board) Order 1980(a) is hereby revoked.

Signed by order of the Secretary of State

3rd June 1991

Robert Jackson
Parliamentary Under Secretary of State,
Department of Employment

SCHEDULE 1

THE ENGINEERING CONSTRUCTION INDUSTRY

1. Subject to the provisions of this Schedule, the activities of the engineering construction industry are the following activities 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 persons in employment to which the Employment Protection (Offshore Employment) Order 1976(b) applies:—

(a) the activities of—

(i) fabrication, assembly, construction, erection, installation, fitting, testing, inspection, maintenance, repair, replacement or dismantling 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, nuclear waste reprocessing site, 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, the processing and production of human and animal food, pharmaceutical, cosmetic and petrochemical products, cement, concrete bricks, distilling alcohol or other products, glass, paper and sewerage and any other installation involving processing of any product;

(a) S.I. 1980/1273.

(b) 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.

- (ii) planning, designing, commissioning or procuring by way of contract or otherwise of any apparatus, machinery or plant mentioned in head (i) above carried on in association with any activity mentioned in that head or in association with any project for such an activity;
 - (iii) supervision of the fabrication, assembly, construction, erection, installation, fitting, testing, inspection, maintenance, repair, replacement or dismantling of any apparatus, machinery or plant mentioned in head (i) above when carried out on site;
 - (iv) the erection and/or dismantling of the main framework of buildings, being framework of steel or other metallic construction, or of other structures consisting wholly or mainly of steel and/or other metal, not being either structures forming part of a building, electric lines or structures designed for the support thereof, walls, fencing, hoardings, exhibition stands, scaffolding or contractors' plant;
- (b) the hiring out by an employer of individuals in his employment to persons engaging in any of the foregoing activities, where the said individuals are to be employed in such activities;
- (c) any activities, being—
- (i) related activities incidental or ancillary to principal activities of the engineering 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;
- (d) any activities of industry or commerce (other than engineering construction activities) carried out at or from an establishment mainly engaged—
- (i) in engineering construction activities; or
 - (ii) in engineering construction activities and in activities described in the Appendix to this Schedule, but to a greater extent in engineering construction activities than in activities described in that Appendix in relation to the construction industry.

2. Notwithstanding anything contained in this Schedule, there shall not be included in the activities of the engineering construction industry—

- (a) the activities (not being activities described in paragraph 1(c) above) of any establishment engaged—
 - (i) mainly in activities not being engineering construction activities or activities described in the Appendix to this Schedule; or
 - (ii) to a less extent in engineering construction activities than in activities described in that Appendix in relation to the construction 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 engineering 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 any one or more of the activities set out in paragraph 1 of Schedule 1 to the Industrial Training (Construction Board) Order 1964(a);
- (d) the activities of any establishment engaged in building work or civil engineering work, or (being operations undertaken in, upon, above or under a building, or the close, curtilage or precincts thereof, or a civil engineering work or the site of a building or such a work) in the provision or continued provision for the building, civil engineering work or site of water, gas, electricity, lighting, heating, ventilation or air-conditioning;

(a) S.I. 1964/ 1079; relevant amending instrument is S.I. 1991/28.

- (e) the activities of—
 - (i) a harbour authority when acting in that capacity;
 - (ii) a local authority when acting in that capacity;
- (f) the United Kingdom Atomic Energy Authority;
- (g) the activities of a charity;
- (h) 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^(a) (which relates to the provision for registered persons who are seriously disabled of work or training);
- (i) any work, occupation or training that is provided in accordance with arrangements made by a local authority under the Disabled Persons (Employment) Act 1958^(b) 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;
- (j) any activities in agriculture;
- (k) any operations carried out by a 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; or
- (l) the supply of food or drink for immediate consumption.

3. In this Schedule unless the context otherwise required—

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

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

“civil engineering work” means the construction or demolition of a railway-line, siding or monorail, 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, the sinking of a shaft or bore-hole in a mine of coal, stratified ironstone, shale or fireclay, the construction of a road below ground in such a mine, the construction of a swimming pool or other bathing place or of a playing field or ground for sporting or recreational purposes, the laying out of a cemetery or the preparation of the site, or the laying down of a foundation or sub-structure, in connection with any of the said operations or with the erection of structural metal work, but does not include any activities to which paragraph 1(a)(i) of this Schedule applies or the installation, testing, inspection or repair of machinery or plant, not being contractors’ plant;

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

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

“harbour authority” means a harbour authority within the meaning of the Harbour Act 1964^(g);

“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 a joint board or joint committee of such authorities appointed under any enactment, order or scheme;

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

“principal activities of the engineering construction industry” means activities which, subject to the provisions of paragraph 2 of this Schedule, are specified in paragraph 1, other than those in sub-paragraphs (c) and (d) thereof, as activities of the engineering construction industry;

“production” includes any process or operation incidental or appertaining to production;

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

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

“repair” includes all or any of the operations of repair, reconditioning, modification, alteration or conversion or the replacement of a part, but does not include cleaning or washing vehicles or carrying out running repairs or minor adjustments thereto;

“testing” includes non-destructive techniques requiring the use of ultrasonics and radiography or other appropriate technology;

“engineering construction drawings” means drawings or designs created by hand or by computer related software.

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.

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.

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
The Construction Industry	The Industrial Training (Construction Board) Order 1964	Schedule 1 Paragraph 1(j)