

2007 No. 3148

EMPLOYMENT AND TRAINING, ENGLAND AND WALES

The Industrial Training (Film Industry Training Board for England and Wales) Order 2007

<i>Made</i> - - - -	<i>31st October 2007</i>
<i>Laid before Parliament</i>	<i>7th November 2007</i>
<i>Coming into force</i> - -	<i>7th December 2007</i>

The Secretary of State for Innovation, Universities and Skills makes the following Order in exercise of the powers conferred by section 1 of and paragraphs 1 and 8 of Schedule 1 to the Industrial Training Act 1982(a).

In accordance with section 1(4) of that Act he has consulted such organisations and associations of organisations appearing to him to be representative of substantial numbers of employers and such other organisations, associations and bodies as he thought fit.

Citation, commencement, extent and interpretation

1. This Order may be cited as the Industrial Training (Film Industry Training Board for England and Wales) Order 2007 and comes into force on 7th December 2007.
2. This Order extends to England and Wales only(b).
3. In this Order, “the Act” means the Industrial Training Act 1982.

Establishment of the Film Industry Training Board for England and Wales

4.—(1) An industrial training board is established to exercise, in relation to the activities specified in Schedule 1 as activities of the film industry, the functions conferred on industrial training boards by the Act.

(2) The industrial training board established under paragraph (1) is to be known as the Film Industry Training Board for England and Wales.

Membership and proceedings of the Film Industry Training Board for England and Wales

5. Schedule 2 makes provision in respect of the membership and proceedings of the Film Industry Training Board for England and Wales.

(a) 1982 c.10. Section 1 has been amended by the Employment Act 1989, section 23, Schedule 4, paragraph 1 and Schedule 7.
(b) By virtue of section 53 of the Scotland Act 1998 (c. 46), the powers in section 1 and paragraphs 1 and 8 of Schedule 1 to the Industrial Training Act 1982 are exercisable by the Secretary of State only in relation to England and Wales.

31st October 2007

David Lammy
Parliamentary Under Secretary of State
Department for Innovation, Universities and Skills

SCHEDULE 1

article 4(1)

The Film Industry

The activities

1. Subject to paragraph 3, the activities of the film industry are the activities specified in paragraph 2 in so far as they are carried out in England and Wales.

2. The activities are—

- (a) all activities in the development, pre-production, principal photography or post-production of a film intended for theatrical release;
- (b) any activities being incidental or ancillary to the activities specified in paragraph (a) carried out by, or on behalf of, the employer engaged in those activities.

3. The activities specified in paragraph 2 do not include any of the activities specified—

- (a) as activities of the construction industry in Schedule 1 to the Industrial Training (Construction Board) Order 1964(a);
- (b) as activities of the engineering construction industry in Schedule 1 to the Industrial Training (Engineering Board) Order 1964(b).

Interpretation

4.—(1) In this Schedule—

“development” means progressing a proposal for a film to the point at which a decision can be taken as to whether to proceed to pre-production of that film;

“film” means any record, however made, of a sequence of visual images that is capable of being used as a means of showing that sequence as a moving picture;

“pre-production” means preparation for principal photography;

“principal photography” means the shooting of a film and recording of its soundtrack;

“post-production” means ensuring, after principal photography, that the film and its soundtrack are ready for theatrical release;

“theatrical release” means exhibition to the paying public at the commercial cinema.

(2) For purposes of this Schedule a film is intended for theatrical release—

- (a) if it is intended at the time when pre-production of that film begins that it will be given a theatrical release; and
- (b) even if it is not given such a release.

(3) References in this Schedule to shooting include the generation of images in a film by computer.

(a) S.I. 1964/1079, as amended by S.I. 1988/1100 and S.I. 1992/3048.

(b) S.I. 1964/1086, as amended by S.I. 1980/1273, S.I. 1988/1100, S.I. 1990/526 and S.I. 1991/1305.

Membership and proceedings of the Film Industry Training Board for England and Wales

Membership of the Board

1. The Secretary of State must determine the term for which each member is appointed and, subject to paragraphs 2 to 4, a member holds and vacates office in accordance with the instrument appointing him as such.

2. A member is eligible for reappointment.

3.—(1) A member may resign his office by notifying the Secretary of State in writing.

(2) A notice given under sub-paragraph (1) takes effect on the date appointed by the Secretary of State.

4.—(1) The Secretary of State may determine a member's office to be vacant if he—

(a) is absent from meetings for more than six months consecutively—

(i) for a reason other than illness; and

(ii) without the approval of the Secretary of State; or

(b) becomes, in the Secretary of State's opinion, unfit to continue in office or incapable of performing his duties.

(2) Where the Secretary of State makes a determination under sub-paragraph (1)—

(a) he must notify, in such form as he considers appropriate, the relevant member and the Board of that determination; and

(b) the relevant office becomes vacant on the date specified by the Secretary of State in the notice given under paragraph (a).

Proceedings of the Board

5.—(1) The Board must have an office at which communications and notices will at all times be received.

(2) The Board must notify the Secretary of State in writing of—

(a) the address of the office mentioned in sub-paragraph (1); and

(b) any subsequent change to that address.

6. The quorum for a meeting is—

(a) one third of the members; or

(b) if the number of members calculated under paragraph (a) results in a fraction, the nearest higher whole number of the members.

7.—(1) The chairman or, if the chairman is absent, the deputy chairman must preside at all meetings.

(2) Despite sub-paragraph (1), if the chairman or any deputy chairman is not present at any meeting within 10 minutes of the time at which that meeting was due to start, the members present must nominate one of their number to act as chairman for that meeting.

8.—(1) Where a resolution relating to a matter other than the imposition of a levy is put to a vote at a meeting, it is to be decided on a show of hands of the members present.

(2) For the purposes of sub-paragraph (1)—

(a) each member has one vote;

- (b) if the votes are equally divided, the chairman (or person acting as chairman for that meeting) has a second or casting vote.

9.—(1) Subject to paragraph 6 of Schedule 1 to the 1982 Act, where a resolution relating to the imposition of a levy is put to a vote at a meeting it is to be decided—

- (a) on a show of hands of eligible members present at that meeting; or
- (b) if an eligible member demands a poll under sub-paragraph (2), on a poll.

(2) An eligible member present and voting at the meeting at which a resolution relating to the imposition of a levy is put to a vote may demand a poll either before or on the declaration of the result on the show of hands.

(3) Where a poll is demanded under sub-paragraph (2)—

- (a) that poll is to be carried out immediately; and
- (b) votes may be given personally or by valid proxy.

(4) Subject to sub-paragraph (5), a vote is given by valid proxy if it is given in accordance with a qualifying instrument of proxy.

(5) A vote is not given by valid proxy if it is given in accordance with an instrument of proxy in relation to which there is a disqualifying notice.

(6) For the purposes of this paragraph, each eligible member has one vote.

10.—(1) Minutes must be kept of all proceedings of the Board.

(2) If they are signed by a qualifying person, minutes are—

- (a) evidence of the proceedings of a meeting; and
- (b) unless proved otherwise, evidence that a meeting was properly convened and constituted.

Execution and issue of instruments

11. The seal of the Board is authenticated by the signature of—

- (a) the chairman of the Board or any member authorised to act on his behalf; and
- (b) the secretary of the Board or any member authorised to act as secretary of the Board.

Interpretation

12. In this Schedule—

“the Board” means the Film Industry Training Board for England and Wales;

“disqualifying notice” means, in relation to an instrument of proxy, notice in writing—

- (a) either —
 - (i) that the instrument of proxy has been revoked; or
 - (ii) of the death or insanity of the principal appointing a proxy under the instrument of proxy; and
- (b) received by the Board at its office before the meeting at which the instrument of proxy was used;

“eligible member” means a member mentioned in paragraph 6 of Schedule 1 to the Act;

“meeting” means a meeting of the Board;

“member” means a member of the Board;

“qualifying instrument of proxy” means an instrument of proxy—

- (a) in writing under the hand of and signed and dated by the eligible member (“the principal”) appointing the proxy;
- (b) appointing another eligible member to act as proxy for the principal; and
- (c) in the following form, or as near to this form as is possible in the circumstances—

“I of ... being a member of the Film Industry Training Board for England and Wales and mentioned in paragraph 6 of Schedule 1 to the Industrial Training Act 1982, as amended, appoint of ... or failing him of ... as my proxy to vote on my behalf on any matter relating to the imposition of a levy at the meeting of the said Board to be held on the ... day of ... 20.. and at any adjournment of that meeting.”

“qualifying person” means—

- (a) the chairman;
- (b) the person who acted as chairman of the meeting in respect of which the minutes were taken; or
- (c) the person who acted as chairman at the meeting at which the minutes were read.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 1 of the Industrial Training Act 1982 (“the Act”) provides for the creation of industrial training boards for the purpose of making better provision for the training of persons over compulsory school age for employment in specified activities of industry or commerce.

This Order is made under section 1 of the Act to establish an industrial training board to be known as the Film Industry Training Board for England and Wales (“the Board”). The industry in relation to which the Board is established is defined by Schedule 1 to this Order.

Schedule 2 to this Order makes provision in respect of the membership and proceedings of the Board.

A full regulatory impact assessment of the effect that this Order will have on the costs of business is available from the Department for Innovation, Universities and Skills, Moorfoot, Sheffield, S1 4PQ.

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**The Industrial Training (Film Industry Training Board for
England and Wales) Order 2007**

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