



Films Act 1985

1985 CHAPTER 21

E+W+S

An Act to repeal the Films Acts 1960 to 1980; to make further provision with respect to the financing of films; and for connected purposes. [23rd May 1985]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Commencement Information

II Act partly in force at Royal Assent; wholly in force at 23.7.1985, see [s. 8\(2\)](#)

1 Repeal of Films Acts 1960 to 1980 and abolition of Cinematograph Films Council. **E+W+S**

^{F1}(1)

^{F2}(2)

(3) Where anything purporting to have been done by or in relation to that Council was done before the passing of this Act at a time when the Council was constituted otherwise than as required by law it shall be treated as not having been rendered invalid by reason of the Council's having been so constituted.

Textual Amendments

F1 [S. 1\(1\)](#) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 5](#), Group 19

F2 [S. 1\(2\)](#) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 5](#), Group 19

^{F3}2 **E+W+S**

Status: Point in time view as at 01/04/2006.

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Textual Amendments

F3 S. 2 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt.IX.

3 Dissolution of National Film Finance Corporation. E+W+S

^{F4}(1)

(2) Where in consequence of an order under the said paragraph 8 (whether made by virtue of subsection (1) or not)—

- (a) any property or right of the Corporation becomes vested in the Secretary of State; or
- (b) any amount is received by the Secretary of State in respect of any such property or right,

the Secretary of State shall deal with that property, right or amount in such manner as he thinks fit for any purpose connected with the British film industry.

^{F5}(3)

(4) The Secretary of State may, in the case of any right to which this subsection applies, arrange for the right to be transferred, on such conditions as he thinks fit, to any British company or partnership in whose case he is satisfied as to the following matters, namely—

- (a) that the company or partnership will use its best endeavours to encourage the production of relevant films on a commercially successful basis; and
- (b) that it is willing and able to make financial facilities available to persons who wish to arrange for the production of relevant films;

and, subject to any such conditions, the company or partnership may dispose of the right (whether wholly or to any lesser extent) and retain any sums accruing therefrom.

(5) Subsection (4) applies to—

- (a) any copyright or share of a copyright or any licence granted under a copyright;
- (b) any right in, or relating to the exploitation of, a film and not within paragraph (a).

^{F5}(6)

(7) In this section—

“British company” means a company incorporated under the laws of Great Britain, being a company—

- (i) over which a Commonwealth citizen has control, or two or more Commonwealth citizens are together in a position to exercise control, or
- (ii) over which a company which is a British company by virtue of the preceding provisions of this definition has control, or two or more such companies or such a company and a Commonwealth citizen are together in a position to exercise control;

“British partnership” means a limited partnership formed in accordance with the ^{M1}Limited Partnerships Act 1907 in which the general partner within the meaning of that Act, or (as the case may be) each of the general partners, is a British company;

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“control”, in relation to a company, means the power of a person or combination of persons to secure—

- (i) by means of the holding of shares or the possession of voting power in or in relation to that company or any other body corporate, or
- (ii) by virtue of any powers conferred by the articles of association or other document regulating that company or any other body corporate,

that the affairs of the company are conducted in accordance with the wishes of that person or those persons;

“relevant film” means a film which is intended to satisfy (whether wholly or to a substantial extent) the conditions that must be satisfied under Schedule 1 to this Act for a film to be a British film for the purposes of that Schedule.

^{F5}(8)

Textual Amendments

- F4** S. 3(1) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5, Group 19
- F5** S. 3(3),(6) and (8) repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt.IX.

Modifications etc. (not altering text)

- C1** S. 3(7) amended (27.8.1999) by S.I. 1999/2386, art. 1(3)
- S. 3(7) modified (10.3.2000) by S.I. 2000/756, art. 1(2)

Marginal Citations

- M1** 1907 c. 24.

^{F6}4 **E+W+S**

Textual Amendments

- F6** S. 4 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt.IX.

5 Financial assistance by Secretary of State in connection with the production of films. **E+W+S**

- (1) The Secretary of State with the consent of the Treasury may ^{F7}. . . give financial assistance—
 - (a) to any British company or partnership, being a company or partnership in whose case he is satisfied as to the matters mentioned in paragraphs (a) and (b) of section 3(4), for any purpose connected with the production of relevant films;
 - (b) to any person—
 - (i) for the purpose of enabling projects to be prepared, or other preliminary work to be undertaken or steps taken, with a view to the production of relevant films; or
 - (ii) for any purpose connected with the production of short films.

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In this subsection “British company”, “British partnership” and “relevant film” have the meaning given by section 3(7), and “short film” means a relevant film with a total playing time of less than 35 minutes.

- (2) Assistance under subsection (1) may be given by way of a grant or loan or in the form of a guarantee or otherwise; and in giving assistance under that subsection the Secretary of State may impose such conditions as he thinks fit, including conditions requiring a grant to be repaid in specified circumstances.
- (3) The Secretary of State may appoint a person to make recommendations and provide other services in connection with the discharge by the Secretary of State of his functions under subsection (1)(b).
- (4) Any sums required by the Secretary of State for making payments under subsection (1), or for meeting any expenses of any person appointed under subsection (3), shall be paid out of money provided by Parliament; and any sums received by the Secretary of State by virtue of this section shall be paid into the Consolidated Fund.

Textual Amendments

F7 Words in s. 5(1) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.IX**.

6 Certification of master negatives, tapes and discs for purposes of section 72 of Finance Act 1982. **U.K.**

- (1) Schedule 1 to this Act shall have effect with respect to the certification by the Secretary of State of a master negative, tape or disc of a film as a qualifying film, tape or disc for the purposes of [^{F8}section 40D of the Finance (No. 2) Act 1992 [^{F9}or Chapter 9 of Part 2 of the Income Tax (Trading and Other Income) Act 2005] (election relating to tax treatment of films expenditure)].
- (2) **F10**

Subordinate Legislation Made

P1 S. 6: for previous exercises of this power see Index to Government Orders

P2 S.6(1):s. 6(1) (with Sch. 1 para. 4(5)) power exercised by **S.I. 1991/1725**

Textual Amendments

F8 Words in s. 6(1) substituted (22.3.2001 with effect as mentioned in s. 579(1)(3) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 8**

F9 Words in s. 6(1) inserted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 398** (with Sch. 2)

F10 S. 6(2) repealed by Capital Allowances Act 1990 (c. 1, SIF 63:1), ss. 82, 164, **Sch. 2**

7 Repeals, etc. **U.K.**

- (1) The enactments mentioned in Schedule 2 to this Act are repealed to the extent specified in the third column of that Schedule.
- (2) **F11**

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- (3) Notwithstanding the repeal by this Act of the ^{M2}Films Act 1960 the register kept under Part II of that Act shall continue to be kept by the Secretary of State in connection with the determination, for the purposes of any statutory provision, of questions relating to the registration of films under Part II of the Films Act 1960 or Part III of the ^{M3}Cinematograph Films Act 1938.
- (4) Where any film would, but for the repeal by this Act of the Films Act 1960 and the ^{M4}Films Act 1970, be—
- (a) a British film for the purposes of the ^{M5}Film Levy Finance Act 1981 by virtue of section 9(2) of that Act (interpretation); or
 - (b) an eligible film for the purposes of regulations made under section 6 of that Act,
- that film shall be a British film, or (as the case may be) an eligible film, for those purposes notwithstanding the repeal of the said Acts of 1960 and 1970.
- (5) ^{F12}
- (7) The Secretary of State may by order made by statutory instrument provide for such further transitional and saving provisions to have effect in connection with the coming into operation of any provision of this Act as appears to him to be necessary or expedient.

Textual Amendments

F11 S. 7(2) repealed by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(2), [Sch. 8](#)

F12 S. 7(5)(6) repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), ss. 82, 164, [Sch. 2](#)

Marginal Citations

M2 1960 c. 57.

M3 1938 c. 17.

M4 1970 c. 26.

M5 1981 c. 16.

8 Short title, commencement and extent. U.K.

- (1) This Act may be cited as the Films Act 1985.
- (2) The following provisions of this Act shall come into force at the end of the period of two months beginning with the day on which it is passed, namely—
- (a) section 6 and Schedule 1;
 - (b) section 7(1) and Schedule 2 so far as relating to the ^{M6}Finance Act 1982 and the ^{M7}Finance Act 1984;
 - (c) section 7(5) and (6).
- (3) The following provisions of this Act extend to Northern Ireland, namely—
- ^{F13}(a)
 - (b) section 6 and Schedule 1;
 - (c) section 7 and Schedule 2;
 - (d) this section.

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Textual Amendments

F13 S. 8(3)(a) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.IX**.

Marginal Citations

M6 1982 c. 39.

M7 1984 c. 43.

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SCHEDULES

SCHEDULE 1 U.K.

Sections 3, 5 and 6.

CERTIFICATION FOR PURPOSES OF SECTION 72 OF FINANCE ACT 1982 IN CASE OF BRITISH FILMS

Preliminary

1 (1) In this Schedule—

F14
...

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

F14
...

“maker”, in relation to a film, means the person by whom the arrangements necessary for the making of the film are undertaken;

“master disc”, in relation to a film, means the original master film disc or the original master audio disc of the film;

“master negative” in relation to a film, means the original master negative of the film and its soundtrack (if any);

“master tape”, in relation to a film, means the original master film tape or the original master audio tape of the film;

F15
...

F15
...

[^{F16}(2) For the purposes of this Schedule the production of a film is completed when the film is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public]

(3) Subject to sub-paragraph (4), each part of a series of films shall be treated as a separate film for the purposes of this Schedule.

[^{F17}(4) The Secretary of State may direct that a number of films shall be treated as a single film for the purposes of this Schedule if—

- (a) they form a series with not more than twenty-six parts;
- (b) the combined playing time is not more than twenty-six hours; and
- (c) in the opinion of the Secretary of State the series constitutes a self-contained work or is a series of documentaries with a common theme.]

(5) Any reference in this Schedule to a master negative, tape or disc certified under paragraph 3(1) or to a certificate issued under that provision includes a reference to a master negative, tape or disc certified in pursuance of section 72(7)(b) of the ^{M8}Finance Act 1982 as originally enacted or to a certificate issued in pursuance of that provision.

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Textual Amendments

- F14** Definitions of "Commonwealth country" and "film production activity" in Sch. 1 para. 1(1) omitted (1.4.2006) by virtue of [Films \(Definition of British Film\) Order 2006 \(S.I. 2006/643\)](#), [arts. 1\(1\), 3](#) (with [art. 2](#))
- F15** Definitions of "sound recording" and "studio" in Sch. 1 para. 1(1) omitted (27.8.1999) by virtue of [S.I. 1999/2386](#), [arts. 2, 3\(3\)](#), Appendix Sch. 1
- F16** Sch. 1 para. 1(2) substituted (27.8.1999) by [S.I. 1999/2386](#), [arts. 2, 4](#), Appendix Sch. 1
- F17** Sch. 1 para. 1(4) substituted (27.8.1999) by [S.I. 1999/2386](#), [arts. 2, 5](#), Appendix Sch. 1

Marginal Citations

- M8** 1982. c. 39.

Applications for certification of master negatives, tapes and discs

- 2 (1) An application for the certification by the Secretary of State of a master negative, master tape or master disc of a film as a qualifying film, qualifying tape or qualifying disc for the purposes of [^{F18}section 40D of the Finance (No. 2) Act 1992][^{F19}, or Chapter 9 of Part 2 of the Income Tax (Trading and Other Income) Act 2005,] may be made by any person who has incurred expenditure on the production or acquisition of that negative, tape, or disc.
- (2) In sub-paragraph (1) the reference to the acquisition of a master negative, tape or disc includes a reference to the acquisition of any description of rights in it.
- (3) On an application under this paragraph for the certification of a master negative, tape or disc the applicant shall—
- (a) produce to the Secretary of State such books and other documents relating to it; and
 - (b) furnish to the Secretary of State such other information with respect to it, as the Secretary of State may require for the purpose of determining the application.
- (4) Any information furnished for the purposes of sub-paragraph (3) shall, if the Secretary of State so directs, be accompanied by a statutory declaration as to the truth of the information made by the person furnishing it.

Textual Amendments

- F18** Words in Sch. 1 para. 2(1) substituted (22.3.2001 with effect as mentioned in [s. 579\(1\)\(3\)](#) of the amending Act) by [2001 c. 2, s. 578](#), [Sch. 2 para. 9\(1\)](#)
- F19** Words in Sch. 1 para. 2(1) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [s. 883\(1\)](#), [Sch. 1 para. 399\(2\)](#) (with [Sch. 2](#))

Certification by Secretary of State of master negatives, tapes and discs

- 3 (1) If the Secretary of State is satisfied that a master negative, tape or disc with respect to which an application is made under paragraph 2 is a master negative, tape or disc of a film which, in his opinion, is a British film for the purposes of this Schedule, he shall certify that negative, tape or disc as a qualifying film, qualifying tape or qualifying disc for the purposes of [^{F20}section 40D of the Finance (No. 2) Act 1992][^{F21}or, as

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the case may be, Chapter 9 of Part 2 of the Income Tax (Trading and Other Income) Act 2005].

- (2) If the Secretary of State is for any reason not satisfied as mentioned in sub-paragraph (1) he shall refuse the application.
- (3) If it appears to the Secretary of State that any negative, tape or disc certified by him under sub-paragraph (1) ought for any reason not to have been so certified he shall revoke its certification.
- (4) Where an application is made under paragraph 2 in relation to a negative, tape or disc of a film which has already been certified by the Secretary of State under sub-paragraph (1) on a prior application, the Secretary of State may issue the applicant with a duplicate or copy of the certificate issued on that prior application.

Textual Amendments

- F20** Words in Sch. 1 para. 3(1) substituted (22.3.2001 with effect as mentioned in s. 579(1)(3) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 9(2)**
- F21** Words in Sch. 1 para. 3(1) inserted (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005 (c. 5)**, s. 883(1), **Sch. 1 para. 399(3)** (with Sch. 2)

British films for purposes of the Schedule

- [^{F224} (1) A film is a British film for the purposes of this Schedule if the requirements specified in sub-paragraphs (2) and (3) are met.
- (2) The first requirement is that throughout the period during which the film is being made the maker of the film is—
 - (a) a person ordinarily resident in a member State, or
 - (b) a company which is registered in a member State and of which the central management and control of business is exercised in a member State.
 - (3) The second requirement is that the film passes the relevant cultural test (see paragraph 4A, 4B or 4C).
 - (4) For the purposes of this paragraph and paragraphs 4A to 4D a state shall be treated as if it were a member State if—
 - (a) it is a party to an agreement under Article 310 of the Treaty establishing the European Community, and
 - (b) the agreement requires a maker of a film who is ordinarily resident or registered in that state to be treated for the purposes of this Schedule in the same way as a maker of a film who is ordinarily resident or registered in a member State.
 - (5) Her Majesty may by Order in Council provide for films to be treated as British films for the purposes of this Schedule if they are made in accordance with the terms of any agreement between Her Majesty's Government in the United Kingdom and any other government, international organisation or authority.
 - (6) This paragraph has effect subject to paragraph 5 (excluded films).

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Textual Amendments

F22 Sch. 1 paras. 4-4D substituted for Sch. 1 para. 4 (1.4.2006) by [Films \(Definition of British Film\) Order 2006 \(S.I. 2006/643\)](#), arts. 1(1), 4 (with art. 2)

- 4A (1) The cultural test for a film other than a documentary (see paragraph 4B) or an animation (see paragraph 4C) is as follows.
- (2) A film passes the cultural test if it is awarded at least 16 points in total.
- (3) Up to 4 points shall be awarded in respect of the content of the film as follows—
- (a) 1 point if at least 50% of the film is set in the United Kingdom;
 - (b) 1 point if at least one of the three principal characters depicted in the film (or, if there are three or fewer characters depicted in the film, any of them) is a British character;
 - (c) 1 point if the film depicts a British story;
 - (d) 1 point if at least 50% of the original dialogue is recorded in the English language or in a recognised regional or minority language.
- (4) Up to 15 points shall be awarded in respect of work carried out in the making of the film as follows—
- (a) up to 6 points depending on the percentage of principal photography that is carried out in the United Kingdom as follows—
 - (i) 6 points for 75%,
 - (ii) 5 points for 62.5%,
 - (iii) 4 points for 50%,
 - (iv) 3 points for 37.5%,
 - (v) 2 points for 25%,
 - (vi) 1 point for 10%;
 - (b) up to 4 points depending on the percentage of the work on visual effects that is carried out in the United Kingdom as follows—
 - (i) 4 points for 75%,
 - (ii) 3 points for 50%,
 - (iii) 2 points for 25%,
 - (iv) 1 point for 10%;
 - (c) 1 point if at least 75% of the work on special effects is carried out in the United Kingdom;
 - (d) up to 2 points depending on the percentage of the work on performing and recording the original music score created for the film that is carried out in the United Kingdom as follows—
 - (i) 2 points for 75%,
 - (ii) 1 point for 50%;
 - (e) 1 point if at least 75% of the work on audio post production is carried out in the United Kingdom;
 - (f) 1 point if at least 75% of the work on image processing is carried out in the United Kingdom.
- (5) Up to 13 points shall be awarded in respect of the personnel involved in the making of the film as follows—

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- (a) 2 points if the director (or, if there is more than one, the lead director) is a qualifying person;
- (b) up to 2 points depending on the number of the scriptwriters who are qualifying persons as follows—
 - (i) if there is only one scriptwriter, 2 points if he is a qualifying person,
 - (ii) if there are only two scriptwriters, 2 points if both of them are qualifying persons, 1 point if one of them is,
 - (iii) if there are only three scriptwriters, 2 points if two or more of them are qualifying persons, 1 point if one of them is,
 - (iv) if there are more than three scriptwriters, 2 points if two or more of the three lead scriptwriters are qualifying persons, 1 point if one of the three lead scriptwriters is a qualifying person;
- (c) 1 point if at least one of the producers (or, if there are more than three, of the three lead producers) is a qualifying person;
- (d) 1 point if the composer (or, if there is more than one, the lead composer) is a qualifying person;
- (e) up to 2 points depending on the number of the actors who are qualifying persons as follows—
 - (i) if there are more than three actors, 2 points if two or more of the three lead actors are qualifying persons, 1 point if one of the three lead actors is a qualifying person,
 - (ii) if there are only three actors, 2 points if two or more of them are qualifying persons, 1 point if one of them is,
 - (iii) if there are only two actors, 2 points if both of them are qualifying persons, 1 point if one of them is,
 - (iv) if there is only one actor, 2 points if he is a qualifying person;
- (f) 1 point if at least 50% of the cast are qualifying persons;
- (g) up to 3 points depending on the number of the heads of department who are qualifying persons as follows—
 - (i) 3 points for five or more,
 - (ii) 2 points for three or four,
 - (iii) 1 point for one or two;
- (h) 1 point if at least 50% of the production crew are qualifying persons.

Textual Amendments

F22 Sch. 1 paras. 4-4D substituted for Sch. 1 para. 4 (1.4.2006) by [Films \(Definition of British Film\) Order 2006 \(S.I. 2006/643\)](#), arts. 1(1), 4 (with art. 2)

- 4B (1) The cultural test for a documentary is as follows.
- (2) A film passes the cultural test if it is awarded at least 16 points in total.
- (3) Up to 4 points shall be awarded in respect of the content of the film as follows—
- (a) 1 point if at least 50% of the film is set in the United Kingdom;
 - (b) 1 point if at least one of the three principal characters depicted in the film (or, if there are three or fewer characters depicted in the film, any of them) is a British character;
 - (c) 1 point if the film depicts a British story;

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- (d) 1 point if at least 50% of the original dialogue is recorded in the English language or in a recognised regional or minority language.
- (4) Up to 15 points shall be awarded in respect of work carried out in the making of the film as follows—
- (a) up to 6 points depending on the percentage of the work on shooting and visual effects that is carried out in the United Kingdom as follows—
- (i) 6 points for 75%,
 - (ii) 5 points for 62.5%,
 - (iii) 4 points for 50%,
 - (iv) 3 points for 37.5%,
 - (v) 2 points for 25%,
 - (vi) 1 point for 10%;
- (b) up to 4 points depending on the percentage of the work on research and development that is carried out in the United Kingdom as follows—
- (i) 4 points for 75%,
 - (ii) 3 points for 50%,
 - (iii) 2 points for 25%,
 - (iv) 1 point for 10%;
- (c) 1 point if at least 75% of the work on special effects is carried out in the United Kingdom;
- (d) up to 2 points depending on the percentage of the work on performing and recording the original music score created for the film that is carried out in the United Kingdom as follows—
- (i) 2 points for 75%,
 - (ii) 1 point for 50%;
- (e) 1 point if at least 75% of the work on audio post production is carried out in the United Kingdom;
- (f) 1 point if at least 75% of the work on image processing is carried out in the United Kingdom.
- (5) Up to 13 points shall be awarded in respect of the personnel involved in the making of the film as follows—
- (a) 2 points if the director (or, if there is more than one, the lead director) is a qualifying person;
- (b) up to 2 points depending on the number of the scriptwriters who are qualifying persons as follows—
- (i) if there is only one scriptwriter, 2 points if he is a qualifying person,
 - (ii) if there are only two scriptwriters, 2 points if both of them are qualifying persons, 1 point if one of them is,
 - (iii) if there are only three scriptwriters, 2 points if two or more of them are qualifying persons, 1 point if one of them is,
 - (iv) if there are more than three scriptwriters, 2 points if two or more of the three lead scriptwriters are qualifying persons, 1 point if one of the three lead scriptwriters is a qualifying person;
- (c) 1 point if at least one of the producers (or, if there are more than three, of the three lead producers) is a qualifying person;
- (d) 1 point if the composer (or, if there is more than one, the lead composer) is a qualifying person;

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- (e) up to 2 points depending on the number of the participants who are qualifying persons as follows—
 - (i) if there are more than three participants, 2 points if two or more of the three lead participants are qualifying persons, 1 point if one of the three lead participants is a qualifying person,
 - (ii) if there are only three participants, 2 points if two or more of them are qualifying persons, 1 point if one of them is,
 - (iii) if there are only two participants, 2 points if both of them are qualifying persons, 1 point if one of them is,
 - (iv) if there is only one participant, 2 points if he is a qualifying person;
- (f) 1 point if at least 50% of all of the participants are qualifying persons;
- (g) up to 3 points depending on the number of the heads of department who are qualifying persons as follows—
 - (i) 3 points for four,
 - (ii) 2 points for three,
 - (iii) 1 point for one or two;
- (h) 1 point if at least 50% of the production crew are qualifying persons.

Textual Amendments

F22 Sch. 1 paras. 4-4D substituted for Sch. 1 para. 4 (1.4.2006) by [Films \(Definition of British Film\) Order 2006 \(S.I. 2006/643\)](#), arts. 1(1), 4 (with art. 2)

- 4C (1) The cultural test for an animation is as follows.
- (2) A film passes the cultural test if it is awarded at least 16 points in total.
- (3) Up to 4 points shall be awarded in respect of the content of the film as follows—
- (a) 1 point if at least 50% of the film is set in the United Kingdom;
 - (b) 1 point if at least one of the three principal characters depicted in the film (or, if there are three or fewer characters depicted in the film, any of them) is a British character;
 - (c) 1 point if the film depicts a British story;
 - (d) 1 point if at least 50% of the original dialogue is recorded in the English language or in a recognised regional or minority language.
- (4) Up to 15 points shall be awarded in respect of work carried out in the making of the film as follows—
- (a) up to 6 points depending on the percentage of the work on shooting, visual design, layout and storyboarding that is carried out in the United Kingdom as follows—
 - (i) 6 points for 75%,
 - (ii) 5 points for 62.5%,
 - (iii) 4 points for 50%,
 - (iv) 3 points for 37.5%,
 - (v) 2 points for 25%,
 - (vi) 1 point for 10%;
 - (b) up to 4 points depending on the percentage of the work on visual effects that is carried out in the United Kingdom as follows—

Status: Point in time view as at 01/04/2006.

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- (i) 4 points for 75%,
 - (ii) 3 points for 50%,
 - (iii) 2 points for 25%,
 - (iv) 1 point for 10%;
 - (c) 1 point if at least 75% of the work on special effects is carried out in the United Kingdom;
 - (d) up to 2 points depending on the percentage of the work on performing and recording the original music score created for the film that is carried out in the United Kingdom as follows—
 - (i) 2 points for 75%,
 - (ii) 1 point for 50%;
 - (e) 1 point if at least 75% of the work on voice recording and audio post production is carried out in the United Kingdom;
 - (f) 1 point if at least 75% of the work on image processing is carried out in the United Kingdom.
- (5) Up to 13 points shall be awarded in respect of the personnel involved in the making of the film as follows—
- (a) 2 points if the director (or, if there is more than one, the lead director) is a qualifying person;
 - (b) up to 2 points depending on the number of the scriptwriters who are qualifying persons as follows—
 - (i) if there is only one scriptwriter, 2 points if he is a qualifying person,
 - (ii) if there are only two scriptwriters, 2 points if both of them are qualifying persons, 1 point if one of them is,
 - (iii) if there are only three scriptwriters, 2 points if two or more of them are qualifying persons, 1 point if one of them is,
 - (iv) if there are more than three scriptwriters, 2 points if two or more of the three lead scriptwriters are qualifying persons, 1 point if one of the three lead scriptwriters is a qualifying person;
 - (c) 1 point if at least one of the producers (or, if there are more than three, of the three lead producers) is a qualifying person;
 - (d) 1 point if the composer (or, if there is more than one, the lead composer) is a qualifying person;
 - (e) up to 2 points depending on the number of the actors who are qualifying persons as follows—
 - (i) if there are more than three actors, 2 points if two or more of the three lead actors are qualifying persons, 1 point if one of the three lead actors is a qualifying person,
 - (ii) if there are only three actors, 2 points if two or more of them are qualifying persons, 1 point if one of them is,
 - (iii) if there are only two actors, 2 points if both of them are qualifying persons, 1 point if one of them is,
 - (iv) if there is only one actor, 2 points if he is a qualifying person;
 - (f) 1 point if at least 50% of the cast are qualifying persons;
 - (g) up to 3 points depending on the number of the heads of department who are qualifying persons as follows—
 - (i) 3 points for five or more,
 - (ii) 2 points for three or four,

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- (iii) 1 point for one or two;
- (h) 1 point if at least 50% of the production crew are qualifying persons.

Textual Amendments

F22 Sch. 1 paras. 4-4D substituted for Sch. 1 para. 4 (1.4.2006) by [Films \(Definition of British Film\) Order 2006 \(S.I. 2006/643\)](#), arts. 1(1), 4 (with art. 2)

- 4D (1) In paragraphs 4A to 4C—
- “cast” means all the actors and performers but not the extras who appear in a film;
 - “heads of department” has the meaning given by sub-paragraph (2);
 - “participant” means a presenter, narrator, subject or other person who participates and appears in a documentary;
 - “production crew” means all the persons directly involved in the production of a film who do not appear in the film;
 - “qualifying person” means a citizen of, or a person ordinarily resident in, a member State;
 - “recognised regional or minority language” means Welsh, Scottish-Gaelic, Irish, Scots, Ulster Scots or Cornish;
 - “special effects” means artificial techniques or processes, which are not visual effects, used to create an illusion in a film;
 - “visual effects” means digital alterations to a film’s images.
- (2) “Heads of department” means—
- (a) in paragraph 4A, the lead cinematographer, the lead production designer, the lead costume designer, the lead editor, the lead sound designer, the lead visual effects supervisor and the lead hair and makeup supervisor;
 - (b) in paragraph 4B, the lead cameraman, the lead sound recordist, the lead editor and the lead researcher;
 - (c) in paragraph 4C, the lead layout supervisor, the lead production designer, the lead character designer, the lead editor, the lead sound designer, the lead visual effects supervisor and the lead modelling supervisor.
- (3) For the purposes of paragraphs 4A to 4C—
- (a) a film is set in the United Kingdom if it is set in a country which is now part of the United Kingdom; and
 - (b) a film depicts a British story if the subject matter of the film or the underlying material on which the film is based is British.
- (4) The amount of work that is carried out in the United Kingdom or elsewhere shall be determined—
- (a) for the purposes of paragraph 4A(4)(a) (principal photography), by reference to the number of days spent on the work;
 - (b) for the purposes of paragraphs 4A(4)(b) to (f), 4B(4)(a) to (f) and 4C(4)(a) to (f) (other matters), by reference to the amount of expenditure on the work.
- (5) No points shall be awarded under any provision of paragraph 4A(4), 4B(4) or 4C(4) (points awarded in respect of the making of the film) in respect of work the expenditure on which is, in the opinion of the Secretary of State, insignificant in relation to the expenditure on all the work carried out in the making of the film.]

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Textual Amendments

F22 Sch. 1 paras. 4-4D substituted for Sch. 1 para. 4 (1.4.2006) by [Films \(Definition of British Film\) Order 2006 \(S.I. 2006/643\)](#), arts. 1(1), 4 (with art. 2)

Excluded films

- [^{F23}5 (1) Subject to sub-paragraph (2), a film is not a British film for the purposes of this Schedule by virtue of paragraph 4(1) if parts of the film are derived, from–
 - (a) any film of which the master negative, tape or disc is certified under paragraph 3(1), or
 - (b) any film not made by the same maker as the first-mentioned film,
 and the playing time of those parts exceeds 10 per cent of the total playing time of the film.
- (2) The Secretary of State may direct that sub-paragraph (1) shall not apply in relation to a film if in his opinion–
 - (a) it is a documentary; and
 - (b) its subject matter makes it appropriate for sub-paragraph (1) not to be applied.]

Textual Amendments

F23 Sch. 1 para. 5 substituted (27.8.1999) by [S.I. 1999/2386](#), arts. 2, 7, Appendix Sch. 1

Ascertainment of labour costs and playing time

^{F24}6

Textual Amendments

F24 Sch. 1 para. 6 omitted (1.4.2006) by virtue of [Films \(Definition of British Film\) Order 2006 \(S.I. 2006/643\)](#), arts. 1(1), 5 (with art. 2)

Determination of requisite amount of labour costs

^{F25}7

Textual Amendments

F25 Sch. 1 para. 7 omitted (1.4.2006) by virtue of [Films \(Definition of British Film\) Order 2006 \(S.I. 2006/643\)](#), arts. 1(1), 5 (with art. 2)

Power of Secretary of State to direct alteration of labour costs

^{F26}8

Status: Point in time view as at 01/04/2006.

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Textual Amendments

- F26** Sch. 1 para. 8 omitted (1.4.2006) by virtue of [Films \(Definition of British Film\) Order 2006 \(S.I. 2006/643\)](#), arts. 1(1), 5 (with art. 2)

Determination of disputes

- 9 (1) Any person who is aggrieved by any decision of the Secretary of State to refuse an application under paragraph 2 or to revoke any certification under paragraph 3(1) may, subject to rules of court, apply to the High Court, and the decision of that Court shall be final.
- (2) In relation to any person whose principal place of business is in Scotland, sub-paragraph (1) shall have effect as if for any reference to the High Court there were substituted a reference to the Court of Session.

Regulations and orders

- 10 (1) The Secretary of State may make regulations—
- (a) prescribing the form of applications under paragraph 2;
 - (b) prescribing the particulars and evidence necessary for satisfying the Secretary of State that a film is a British film for the purposes of this Schedule;
 - (c) providing that any statutory declaration which is required by paragraph 2(4) to be made by any person shall be deemed to be properly made if it is made on his behalf by any such person as may be specified in the regulations.
- (2) The Secretary of State with the approval of the Treasury may by order make such modifications of any of the provisions of paragraphs 1 and 4 to 8 as he considers appropriate; and any such order may contain such incidental, supplemental and transitional provisions as he considers appropriate in connection with the order.
- (3) In sub-paragraph (2) “modifications” includes additions, omissions and alterations.
- (4) Any regulations or order under this paragraph shall be made by statutory instrument.
- (5) Any regulations under this paragraph shall be laid before Parliament after being made; but no order shall be made under this paragraph unless it has been laid before Parliament and approved by a resolution of each House.

SCHEDULE 2 **U.K.**

REPEALS

Chapter	Short title	Extent of repeal
1956 c. 74.	The Copyright Act 1956.	In section 13, in subsection (3) the proviso, and subsection (11).
1960 c. 57.	The Films Act 1960.	The whole Act.

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1964 c. 52.	The Films Act 1964.	The whole Act.
1966 c. 29.	The Singapore Act 1966.	In the Schedule, paragraph 13.
1966 c. 48.	The Films Act 1966.	The whole Act.
1970 c. 26.	The Films Act 1970.	The whole Act.
1972 c. 68.	The European Communities Act 1972.	Section 8.
1973 c. 49.	The Bangladesh Act 1973.	In the Schedule, paragraph 9.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Part III of Schedule 1, the entry relating to the Cinematograph Films Council.
1975 c. 71.	The Employment Protection Act 1975.	In Part IV of Schedule 16, paragraph 8.
1979 c. 9.	The Films Act 1979.	The whole Act.
1980 c. 41.	The Films Act 1980.	The whole Act.
1981 c. 15.	The National Film Finance Corporation Act 1981.	In Schedule 1, paragraph 8(4).
1982 c. 39.	The Finance Act 1982.	In section 72, in subsection (2)(a) the words from “(except” to “requires)”, and subsection (8).
1984 c. 43.	The Finance Act 1984.	Section 62(6).

Status:

Point in time view as at 01/04/2006.

Changes to legislation:

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