



Films Act 1985

1985 CHAPTER 21

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:—

Modifications etc. (not altering text)

- C1** Act applied in part (with modifications) (as amended by 2009 c. 4, Sch. 2 para. 131) (29.3.2007) by Corporation Tax (Taxation of Films) (Transitional Provisions) Regulations 2007 (S.I. 2007/1050), regs. 1(1), regs. 3-12

Commencement Information

- I1** 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.

^{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F1 S. 1(1) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5, Group 19

F2 S. 1(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5, Group 19

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Changes to legislation: Films Act 1985 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F3²

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F3 S. 2 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt.IX.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

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

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the meaning of that Act, or (as the case may be) each of the general partners, is a British company;

“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)

- C2** 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

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.

(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**.

[^{F8}6 Certification of British films

Schedule 1 to this Act has effect with respect to the certification by the Secretary of State of a film as a British film for the purposes of film tax relief.]

Textual Amendments

F8 S. 6 substituted (1.1.2007) by **Finance Act 2006 (c. 25)**, s. 53(1), **Sch. 5 para. 15**; S.I. 2006/3399, art. 2

7 Repeals, etc.

- (1) The enactments mentioned in Schedule 2 to this Act are repealed to the extent specified in the third column of that Schedule.
- (2) ^{F9}
- (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,

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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) ^{F10}

(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

- F9** S. 7(2) repealed by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(2), **Sch. 8**
- F10** 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.

(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—

- ^{F11}(a)
- (b) section 6 and Schedule 1;
- (c) section 7 and Schedule 2;
- (d) this section.

Textual Amendments

- F11** 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

Sections 3, 5 and 6.

[^{F12}CERTIFICATION OF BRITISH FILMS FOR PURPOSES OF FILM TAX RELIEF]

Textual Amendments

F12 Sch. 1 heading substituted (1.1.2007) by Finance Act 2006 (c. 25), s. 53(1), Sch. 5 para. 16; S.I. 2006/3399, art. 2

Preliminary

[^{F13}1 (1) In this Schedule—

“film” includes 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;

“film production company” has the same meaning as in Chapter 3 of Part 3 of the Finance Act 2006 (see section 32 of that Act).

(2) For the purposes of this Schedule each part of a series of films is treated as a separate film, unless—

- (a) the films form a series with not more than 26 parts,
- (b) the combined playing time is not more than 26 hours, and
- (c) the series constitutes a self-contained work or is a series of documentaries with a common theme,

in which case the films are treated as a single film.

(3) References in this Schedule to a film include the film soundtrack.

(4) For the purposes of this Schedule a film is completed when it 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.]

Textual Amendments

F13 Sch. 1 para. 1 substituted (1.1.2007) by Finance Act 2006 (c. 25), s. 53(1), Sch. 5 para. 17; S.I. 2006/3399, art. 2

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[^{F14}Applications for certification]

Textual Amendments

F14 Words in Sch. 1 para. 2 heading substituted (1.1.2007) by [Finance Act 2006 \(c. 25\), s. 53\(1\), Sch. 5 para. 18](#); [S.I. 2006/3399, art. 2](#)

- [^{F152} (1) The film production company may apply to the Secretary of State for the certification of a film as a British film.
- (2) The application may be for an interim or final certificate.
- (3) An interim certificate is a certificate granted before the film is completed that the film, if completed in accordance with the proposals set out in the application, will be a British film.
- (4) A final certificate is a certificate granted after the film is completed that the film is a British film.
- (5) The applicant must—
- (a) produce to the Secretary of State such books or other documents relating to the application, and
 - (b) provide the Secretary of State with such other information with respect to it, as the Secretary of State may require for the purposes of determining the application.
- (6) The Secretary of State may require information provided for the purposes of the application to be accompanied by a statutory declaration, by the person providing it, as to the truth of the information.]

Textual Amendments

F15 Sch. 1 para. 2 substituted (1.1.2007) by [Finance Act 2006 \(c. 25\), s. 53\(1\), Sch. 5 para. 18](#); [S.I. 2006/3399, art. 2](#)

[^{F16}Certification and withdrawal of certification]

Textual Amendments

F16 Words in Sch. 1 para. 3 heading substituted (1.1.2007) by [Finance Act 2006 \(c. 25\), s. 53\(1\), Sch. 5 para. 19](#); [S.I. 2006/3399, art. 2](#)

- [^{F173} (1) If the Secretary of State is satisfied that the requirements are met for interim or final certification of a film as a British film, he shall certify the film accordingly.
- (2) If the Secretary of State is not satisfied that those requirements are met, he shall refuse the application.
- (3) An interim certificate—
- (a) may be given subject to conditions, and (unless the Secretary of State directs otherwise) is of no effect if the conditions are not met;
 - (b) may be expressed to expire after a specified period, and (unless the Secretary of State directs otherwise) ceases to have effect at the end of that period; and

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(c) ceases to have effect when a final certificate is issued.

(4) If it appears to the Secretary of State that a film certified by him under this Schedule ought not to have been certified, he shall revoke its certification.

Unless the Secretary of State directs otherwise, a certificate that is revoked is treated as never having had effect.]

Textual Amendments

F17 Sch. 1 para. 3 substituted (1.1.2007) by [Finance Act 2006 \(c. 25\)](#), s. 53(1), [Sch. 5 para. 19](#); [S.I. 2006/3399](#), art. 2

British films for purposes of the Schedule

^{F18}~~F~~^{F19}(1) A film is a British film for the purposes of this Schedule if it 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).

Textual Amendments

F18 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)

F19 Sch. 1 para. 4(1) substituted for Sch. 1 para. 4(1)-(3) (1.1.2007) by [Finance Act 2006 \(c. 25\)](#), s. 53(1), [Sch. 5 para. 20](#); [S.I. 2006/3399](#), art. 2

^{F20}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) Subject to sub-paragraph (7), a film passes the cultural test if it is awarded at least 16 points in total.

(3) Up to 16 points shall be awarded in respect of the content of the film as follows—

- (a) up to 4 points depending on the percentage of the film that is set in the United Kingdom as follows—
 - (i) 4 points for at least 75%;
 - (ii) 3 points for at least 66%;
 - (iii) 2 points for at least 50%;

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- (iv) 1 point for at least 25%;
 - (b) up to 4 points depending on the number of the characters depicted in the film that are British as follows—
 - (i) if there are more than three characters depicted in the film, 4 points if two or three of the three lead characters are British or, if only one of the three lead characters is British, 2 points if he is the first or second lead, 1 point if he is the third lead;
 - (ii) if there are only three characters depicted in the film, 4 points if two or three of them are British or, if only one of them is British, 2 points if he is the first or second lead, 1 point if he is the third lead;
 - (iii) if there are only two characters depicted in the film, 4 points if both of them are British, 2 points if one of them is;
 - (iv) if there is only one character depicted in the film, 4 points if he is British;
 - (c) 4 points if the film depicts a British story;
 - (d) up to 4 points depending on the percentage of the original dialogue that is recorded in the English language or in a recognised regional or minority language as follows—
 - (i) 4 points for at least 75%;
 - (ii) 3 points for at least 66%;
 - (iii) 2 points for at least 50%;
 - (iv) 1 point for at least 25%.
- (4) Up to 4 points may be awarded in respect of the contribution of the film to the promotion, development and enhancement of British culture.
- (5) Up to 3 points shall be awarded in respect of work carried out in the making of the film as follows—
 - (a) 2 points if at least 50% of the work carried out on any of the following is carried out in the United Kingdom—
 - (i) principal photography;
 - (ii) visual effects;
 - (iii) special effects;
 - (b) 1 point if at least 50% of the work carried out on any of the following is carried out in the United Kingdom—
 - (i) performing and recording the music score created for the film;
 - (ii) audio post production;
 - (iii) picture post production.
- (6) Up to 8 points shall be awarded in respect of the personnel involved in the making of the film as follows—
 - (a) 1 point if the director (or, if there is more than one, the lead director) is a qualifying person;
 - (b) 1 point if at least one of the scriptwriters (or, if there are more than three, 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) 1 point if at least one of the actors (or, if there are more than three, of the three lead actors) is a qualifying person;
 - (f) 1 point if at least 50% of the cast are qualifying persons;
 - (g) 1 point if at least one of the heads of department is a qualifying person;
 - (h) 1 point if at least 50% of the production crew are qualifying persons.
- (7) A film that is awarded all the points available under sub-paragraphs (3)(d) (language), (5) (where work carried out) and (6) (personnel) does not pass the cultural test unless—
- (a) it is awarded at least 2 points under sub-paragraph (3)(a) (setting),
 - (b) it is awarded at least 2 points under sub-paragraph (3)(b) (characters), or
 - (c) it is awarded 4 points under sub-paragraph (3)(c) (story).

Textual Amendments

- F18** 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)
- F20** Sch. 1 paras. 4A-4C substituted (1.1.2007) by [Films \(Definition of British Film\) \(No.2\) Order 2006 \(S.I. 2006/3430\)](#), arts. 1(1)(a), 3 (with art. 2)

- 4B (1) The cultural test for a documentary is as follows.
- (2) Subject to sub-paragraph (7), a film passes the cultural test if it is awarded at least 16 points in total.
- (3) Up to 16 points shall be awarded in respect of the content of the film as follows—
- (a) up to 4 points depending on the percentage of the film that is set in the United Kingdom as follows—
 - (i) 4 points for at least 75%;
 - (ii) 3 points for at least 66%;
 - (iii) 2 points for at least 50%;
 - (iv) 1 point for at least 25%;
 - (b) up to 4 points depending on the number of the characters depicted in the film that are British as follows—
 - (i) if there are more than three characters depicted in the film, 4 points if two or three of the three lead characters are British or, if only one of the three lead characters is British, 2 points if he is the first or second lead, 1 point if he is the third lead;
 - (ii) if there are only three characters depicted in the film, 4 points if two or three of them are British or, if only one of them is British, 2 points if he is the first or second lead, 1 point if he is the third lead;
 - (iii) if there are only two characters depicted in the film, 4 points if both of them are British, 2 points if one of them is;
 - (iv) if there is only one character depicted in the film, 4 points if he is British;
 - (c) 4 points if the film depicts a British story;
 - (d) up to 4 points depending on the percentage of the original dialogue that is recorded in the English language or in a recognised regional or minority language as follows—
 - (i) 4 points for at least 75%;

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- (ii) 3 points for at least 66%;
 - (iii) 2 points for at least 50%;
 - (iv) 1 point for at least 25%.
- (4) Up to 4 points may be awarded in respect of the contribution of the film to the promotion, development and enhancement of British culture.
- (5) Up to 3 points shall be awarded in respect of work carried out in the making of the film as follows—
- (a) 2 points if at least 50% of the work carried out on any of the following is carried out in the United Kingdom—
 - (i) shooting;
 - (ii) visual effects;
 - (iii) research and development;
 - (iv) special effects;
 - (b) 1 point if at least 50% of the work carried out on any of the following is carried out in the United Kingdom—
 - (i) performing and recording the music score created for the film;
 - (ii) audio post production;
 - (iii) picture post production.
- (6) Up to 8 points shall be awarded in respect of the personnel involved in the making of the film as follows—
- (a) 1 point if the director (or, if there is more than one, the lead director) is a qualifying person;
 - (b) 1 point if at least one of the scriptwriters (or, if there are more than three, 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) 1 point if at least one of the participants (or, if there are more than three, of the three lead participants) is a qualifying person;
 - (f) 1 point if at least 50% of the participants are qualifying persons;
 - (g) 1 point if at least one of the heads of department is a qualifying person;
 - (h) 1 point if at least 50% of the production crew are qualifying persons.
- (7) A film that is awarded all the points available under sub-paragraphs (3)(d) (language), (5) (where work carried out) and (6) (personnel) does not pass the cultural test unless—
- (a) it is awarded at least 2 points under sub-paragraph (3)(a) (setting),
 - (b) it is awarded at least 2 points under sub-paragraph (3)(b) (characters), or
 - (c) it is awarded 4 points under sub-paragraph (3)(c) (story).

Textual Amendments

F18 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)

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F20 Sch. 1 paras. 4A-4C substituted (1.1.2007) by [Films \(Definition of British Film\) \(No.2\) Order 2006 \(S.I. 2006/3430\)](#) , arts. 1(1)(a) , 3 (with art. 2)

- 4C (1) The cultural test for an animation is as follows.
- (2) Subject to sub-paragraph (7), a film passes the cultural test if it is awarded at least 16 points in total.
- (3) Up to 16 points shall be awarded in respect of the content of the film as follows—
- (a) up to 4 points depending on the percentage of the film that is set in the United Kingdom as follows—
 - (i) 4 points for at least 75%;
 - (ii) 3 points for at least 66%;
 - (iii) 2 points for at least 50%;
 - (iv) 1 point for at least 25%;
 - (b) up to 4 points depending on the number of the characters depicted in the film that are British as follows—
 - (i) if there are more than three characters depicted in the film, 4 points if two or three of the three lead characters are British or, if only one of the three lead characters is British, 2 points if he is the first or second lead, 1 point if he is the third lead;
 - (ii) if there are only three characters depicted in the film, 4 points if two or three of them are British or, if only one of them is British, 2 points if he is the first or second lead, 1 point if he is the third lead;
 - (iii) if there are only two characters depicted in the film, 4 points if both of them are British, 2 points if one of them is;
 - (iv) if there is only one character depicted in the film, 4 points if he is British;
 - (c) 4 points if the film depicts a British story;
 - (d) up to 4 points depending on the percentage of the original dialogue that is recorded in the English language or in a recognised regional or minority language as follows—
 - (i) 4 points for at least 75%;
 - (ii) 3 points for at least 66%;
 - (iii) 2 points for at least 50%;
 - (iv) 1 point for at least 25%.
- (4) Up to 4 points may be awarded in respect of the contribution of the film to the promotion, development and enhancement of British culture.
- (5) Up to 3 points shall be awarded in respect of work carried out in the making of the film as follows—
- (a) 2 points if at least 50% of the work carried out on any of the following is carried out in the United Kingdom—
 - (i) shooting,
 - (ii) visual design,
 - (iii) layout and storyboarding;
 - (iv) visual effects;
 - (v) special effects;

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- (b) 1 point if at least 50% of the work carried out on any of the following is carried out in the United Kingdom—
- (i) performing and recording the music score created for the film;
 - (ii) voice recording;
 - (iii) audio post production;
 - (iv) picture post production.
- (6) Up to 8 points shall be awarded in respect of the personnel involved in the making of the film as follows—
- (a) 1 point if the director (or, if there is more than one, the lead director) is a qualifying person;
 - (b) 1 point if at least one of the scriptwriters (or, if there are more than three, 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) 1 point if at least one of the actors (or, if there are more than three, of the three lead actors) is a qualifying person;
 - (f) 1 point if at least 50% of the cast are qualifying persons;
 - (g) 1 point if at least one of the heads of department is a qualifying person;
 - (h) 1 point if at least 50% of the production crew are qualifying persons.
- (7) A film that is awarded all the points available under sub-paragraphs (3)(d) (language), (5) (where work carried out) and (6) (personnel) does not pass the cultural test unless—
- (a) it is awarded at least 2 points under sub-paragraph (3)(a) (setting),
 - (b) it is awarded at least 2 points under sub-paragraph (3)(b) (characters), or
 - (c) it is awarded 4 points under sub-paragraph (3)(c) (story).]

Textual Amendments

F18 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)

F20 Sch. 1 paras. 4A-4C substituted (1.1.2007) by [Films \(Definition of British Film\) \(No.2\) Order 2006 \(S.I. 2006/3430\)](#), arts. 1(1)(a), 3 (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;

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“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 [F21]paragraph 4A(5)(a)(i)] (principal photography), by reference to the number of days spent on the work;
 - [F22](b) for the purposes of the rest of paragraph 4A(5) and paragraphs 4B(5) and 4C(5) (other matters), by reference to the amount of expenditure on the work.]
- (5) No points shall be awarded under any provision of [F23]paragraph 4A(5), 4B(5) or 4C(5) (where work carried out)] 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.]

Textual Amendments

- F18** 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)
- F21** Words in Sch. 1 para. 4D(4)(a) substituted (1.1.2007) by [Films \(Definition of British Film\) \(No.2\) Order 2006 \(S.I. 2006/3430\)](#), arts. 1(1)(a), 4(2) (with art. 2)
- F22** Sch. 1 para. 4D(4)(b) substituted (1.1.2007) by [Films \(Definition of British Film\) \(No.2\) Order 2006 \(S.I. 2006/3430\)](#), arts. 1(1)(a), 4(3) (with art. 2)
- F23** Words in Sch. 1 para. 4D(5) substituted (1.1.2007) by [Films \(Definition of British Film\) \(No.2\) Order 2006 \(S.I. 2006/3430\)](#), arts. 1(1)(a), 4(4) (with art. 2)

Excluded films

- [F24]F25(1) A film must not be certified as a British film for the purposes of this Schedule if parts of the film whose playing time exceeds 10% of the total playing time of the film are derived from a previous film, unless—
- (a) the two films have the same film production company or producer, and
 - (b) the previous film has not been certified under this Schedule.]

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(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.]

[^{F26}(3) For the purposes of this paragraph—

- (a) the film soundtrack shall be left out of account;
- (b) “producer” means the person by whom the arrangements necessary for the making of the film are undertaken;
- (c) in relation to certification before the commencement of Chapter 3 of Part 3 of the Finance Act 2006, references to certification of a film shall be read as references to certification of the master negative, tape or disc of the film.]

Textual Amendments

- F24** Sch. 1 para. 5 substituted (27.8.1999) by S.I. 1999/2386, arts. 2, 7, Appendix Sch. 1
- F25** Sch. 1 para. 5(1) substituted (1.1.2007) by Finance Act 2006 (c. 25), s. 53(1), Sch. 5 para. 21(2); S.I. 2006/3399, art. 2
- F26** Sch. 1 para. 5(3) inserted (1.1.2007) by Finance Act 2006 (c. 25), s. 53(1), Sch. 5 para. 21(3); S.I. 2006/3399, art. 2

Ascertainment of labour costs and playing time

^{F27}6

Textual Amendments

- F27** 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

^{F28}7

Textual Amendments

- F28** 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

^{F29}8

Textual Amendments

- F29** 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)

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Determination of disputes

- 9 (1) Any person who is aggrieved by [^{F30}any decision of the Secretary of State under paragraph 3 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.

Textual Amendments

F30 Words in *Sch. 1 para. 9* substituted (1.1.2007) by *Finance Act 2006 (c. 25), s. 53(1), Sch. 5 para. 22; S.I. 2006/3399, art. 2*

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 [^{F31}2(6)] 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 [^{F32}4 to 5] 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.

Textual Amendments

F31 Reference in *Sch. 1 para. 10(1)(c)* substituted (1.1.2007) by *Finance Act 2006 (c. 25), s. 53(1), Sch. 5 para. 23(a); S.I. 2006/3399, art. 2*

F32 Words in *Sch. 1 para. 10(2)* substituted (1.1.2007) by *Finance Act 2006 (c. 25), s. 53(1), Sch. 5 para. 23(b); S.I. 2006/3399, art. 2*

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SCHEDULE 2

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.
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:

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