

EXPLANATORY MEMORANDUM TO
THE FINANCE ACT 2006, SECTION 53(2) (FILMS AND SOUND RECORDINGS:
POWER TO ALTER DATES) ORDER 2006

2006 No. 3265

1. This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before the House of Commons.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

The Order amends the effective date from which the new films tax relief in Chapter 3 Part 3 of Finance Act 2006 applies from 1 April 2006 to 1 January 2007.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

This Order is an anticipatory exercise of the power in section 53(2) of FA 2006 in accordance with section 13 of the Interpretation Act 1978. The exercise of the power is expedient for the purpose of bringing the provisions of Chapter 3 of Part 3 into force as the Order makes necessary changes to dates in the text of the Chapter which must have effect when the new regime comes into force.

4. **Legislative Background**

4.1 Finance Act 2006 introduced new rules in sections 31-53 and Schedule 4 and 5 setting out a comprehensive regime for the taxation of film production companies in respect of their film production. These provisions include a new, enhanced relief for the production of “British films” (defined in Schedule 1 Films Act 1985), replace the previous reliefs for film production and acquisition (sections 40A-43 Finance (No 2) Act 1992) and withdraws (but does not replace) the parallel rules covering film production and acquisition by individuals.

4.2 As introduced, the new rules were to apply to films commencing principal photography on or after 1 April 2006. Films already in production at that date would, under transitional rules, have been eligible for the previous reliefs, provided that they were completed by 31 December 2006 and (in the case of relief for acquisition costs) the acquisition was made by 1 October 2007.

4.3 The new enhanced relief is a State aid, and was notified to the European Commission as such. The Commission gave its approval to the relief on 23 November, but required changes to Schedule 1 of the Films Act 1985. The new relief cannot be implemented until these changes have been made. This Order amends dates in the Finance Act 2006 provisions so that the new relief will only apply to films which qualify

as a British film under new provisions introduced in amendments to Schedule 1 to the Films Act made by **The Films (Definition of “British Film”) (No. 2) Order 2006**.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Paymaster General has made the following statement regarding Human Rights:

In my view the provisions of The Finance Act 2006, section 53(2) (Films and Sound Recordings: Power to Alter Dates) Order 2006 are compatible with the Convention rights.

7. Policy background

7.1 The UK has for some years had a system of special tax reliefs to encourage the production of British films. The Government had however become concerned by 2005 that the existing reliefs were not delivering support to the industry in an efficient and effective manner.

7.2 The Government therefore consulted with industry in Summer 2005 on a new system of incentives and announced at PBR 2005 that new rules would be introduced from 1 April 2006, subject to State aid approval.

7.3 The new rules were included in the 2006 Finance Bill and are in sections 31 – 53 and Schedule 4 and 5 of FA 2006.

8. Impact

A Regulatory Impact Assessment was prepared for the new films tax rules which were introduced in FA 2006. No additional assessment has not been prepared for this instrument as it has no further impact on business, charities or voluntary bodies. DCMS has however prepared an assessment of the impact of amending Schedule 1 Films Act 1985.

9. Contact

David Harris at HM Revenue and Customs Tel: 020 7147 2562 or e-mail: david.harris@hmrc.gsi.gov.uk can answer any queries regarding the instrument.