

2006 No. 3281

CINEMAS AND FILM

The Films (Certification) Regulations 2006

Made - - - - *7th December 2006*

Laid before Parliament *11th December 2006*

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by paragraph 10(1) of Schedule 1 to the Films Act 1985(a).

Citation and commencement

1.—(1) These Regulations may be cited as the Films (Certification) Regulations 2006.

(2) This Order shall come into force only if the Films (Definition of “British Film”) (No. 2) Order 2006 comes into force, and shall do so on the day that Order comes into force(b).

(3) If the Films (Definition of “British Film”) (No. 2) Order 2006 does not come into force before 31st March 2007, this Order is revoked with effect from that date.

Interpretation

2. In these Regulations—

“the Act” means the Films Act 1985;

“co-production film” means a film which by virtue of any Order in Council made under paragraph 4(5) of Schedule 1 to the Act(c) is to be treated as if it is a British film for the purposes of Schedule 1 to the Act;

“core expenditure” has the same meaning as in section 34(1) of the Finance Act 2006(d);

“film production company” has the same meaning as in section 32 of the Finance Act 2006.

“group of companies” means a company and all other companies which are its subsidiaries within the meaning of section 736 of the Companies Act 1985(e).

“other expenditure” means all the expenditure on the work carried out in the making of the film which is not core expenditure;

“producer” means the person by whom the arrangements necessary for the making of the film are undertaken;

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

(a) 1985 c.21.

(b) The Films (Definition of “British Film”) (No. 2) Order 2006 was laid in draft before Parliament on 28th November 2006: article 1(1) provides that the Order comes into force on 1st January or, if later, the day after the day on which it is made.

(c) Paragraph 4(5) was amended by S.I. 2006/643.

(d) 2006 c.25.

(e) 1985 c.6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

“UK expenditure” has the same meaning as in section 35(1) of the Finance Act 2006.

Applications

3. An application under paragraph 2(1) of Schedule 1 to the Act^(a) for the certification of a film as a British film, other than a co-production film, shall be made in writing to the Secretary of State.

Particulars

4. The application shall set out the particulars of the film described in the Schedule.

Evidence

5.—(1) The application shall be accompanied by a statutory declaration made by the applicant as to the truth of the particulars given in the application.

(2) A statutory declaration shall be deemed to be properly made by the applicant if it has been made on behalf of the company by the Secretary or one of the directors of the company or a by any person duly authorised by the company to make the declaration on its behalf.

6.—(1) The application for final certification shall be accompanied by a report prepared by a person referred to in paragraph (2)—

- (a) verifying the particulars in paragraphs 18 to 24 of the Schedule; and
- (b) stating whether, in the opinion of that person, any point should be awarded under paragraphs 4A(5), 4B(5) or 4C(5) of Schedule 1 to the Act^(b).

(2) The person referred to in this paragraph is a person who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989 and is not and was not at any time while the film was being made—

- (a) in partnership with the applicant or any officer or servant of the applicant;
- (b) in the employment of the applicant or any officer or servant of the applicant; or
- (c) an officer or servant of the applicant or, if the applicant is a member of a group of companies, of any other company in that group.

Transitional provision

7.—(1) Subject to paragraphs (2) and (3), the following Regulations are revoked—

- (a) the Films (Certification) Regulations 1985 (No. 994);
- (b) the Films (Certification) (Amendment) Regulations 1999 (No. 2224)
- (c) the Films (Certification) (Amendment) (No. 2) Regulations 1999 (No. 2334).
- (d) the Films (Certification) (Amendment) Regulations 2006 (No. 642).

(2) If an application falls to be determined by the Secretary of State in accordance with Schedule 1 to the Act as in force immediately before 1st April 2006 the Films (Certification) Regulations 1985 shall continue to have effect to the application as if the Films (Certification) (Amendment) Regulations 2006 had not been made.

(3) If an application falls to be determined by the Secretary of State in accordance with Schedule 1 to the Act as in force immediately before the commencement of these Regulations the Films (Certification) Regulations 1985 shall continue to have effect to the application as if these Regulations had not been made.

Shaun Woodward

(a) Paragraph 2(1) was amended by paragraph 18 of Schedule 5 to the Finance Act 2006.

(b) Paragraphs 4A, 4B and 4C will be substituted by the Films (Definition of “British Film”) (No. 2) Order 2006.

SCHEDULE PARTICULARS

Regulation 4

1. Title of the film or, in the case of a series of films or a part thereof, the title of the series or part.
2. Total playing time in minutes and seconds of the film, including credits and titles.
3. Whether the application is for interim or final certification.
4. Whether the film is intended for theatrical release.
5. Name of the applicant.
6. Address of the applicant's principal place of business.
7. Address of the applicant's registered office.
8. Registered number of the applicant.
9. Date of registration of the applicant.
10. Date of the first day of principal photography.
11. Date on which the film was completed for the purposes of Schedule 1 to the Act.
12. If the applicant seeks treatment of a series of films as a single film in reliance upon paragraph 1(2) of Schedule 1 to the Act^(a)—
 - (a) the number of parts in the series;
 - (b) the combined playing time in minutes and seconds of those parts, including credits and titles, and
 - (c) the reasons why the series constitutes a self-contained work or is series of documentaries with a common theme.
13. Type of film: documentary, animation or standard.
14. If the film is a documentary, the reasons why the film should be considered to be a documentary.
15. If the film is an animation, the reasons why the film should be considered to be an animation.
16. The reasons why any point should be awarded under paragraphs 4A(3), 4B(3) or 4C(3) of Schedule 1 to the Act.
17. The reasons why any point should be awarded under paragraphs 4A(4), 4B(4) or 4C(4) of Schedule 1 to the Act.
18. If the applicant seeks to rely on paragraph 4A(5)(a)(i) of Schedule 1 to the Act, the total number of days of principal photography and the number of days of principal photography carried out in the United Kingdom.

(a) Paragraph 1(2) was substituted by paragraph 17 of Schedule 5 to the Finance Act 2006.

19. If the applicant seeks to rely on the rest of paragraph 4A(5), 4B(5) and 4C(5), the total expenditure of the work in relation to which the applicant is applying for points to be awarded and the expenditure of such work carried out in the United Kingdom.

20. The nationality and ordinary residence of all the persons mentioned in paragraphs 4A(6), 4B(6) or 4C(6) of Schedule 1 to the Act in relation to whom the applicant is applying for a point to be awarded.

21. Total core expenditure.

22. Total UK expenditure.

23. Total non-UK expenditure by each country the expenditure is carried out in.

24. Other expenditure on the work carried out in the making of the film which is not core expenditure.

25. Shooting script in the English language.

26. A complete synopsis or treatment of the screenplay in the English language.

27. Shooting schedule.

28. Production budget.

29. Copy of the chain of title.

30. If any part of the film is derived from any previous film (“the previous film”)—

(a) for each part of the film so derived and in respect of which—

(i) the two films do not have the same film production company or producer, and

(ii) the previous film has not been certified under Schedule 1 to the Act, the playing time in minutes and seconds of that part;

(b) the combined playing time in minutes and seconds of all the parts referred to in subparagraph (a); and

(c) if the applicant seeks to rely on paragraph 5(2) of Schedule 1 to the Act (a) the reasons why the subject matter of the film makes it appropriate for paragraph 5(1) of Schedule 1 to the Act (b) not to be applied.

(a) Paragraph 5(2) was substituted by S.I. 1999/2386.

(b) Paragraph 5(1) was substituted by paragraph 21(2) of Schedule 5 to the Finance Act 2006.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the particulars and evidence necessary for satisfying the Secretary of State that a film is a British film for the purposes of Schedule 1 to the Films Act 1985. They also make provision for the making of a statutory declaration on behalf of a company.

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