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DRAFT STATUTORY INSTRUMENTS

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**2007 No.**

**The Corporation Tax (Taxation of Films)  
(Transitional Provisions) Regulations 2007**

*Modifications to the Finance Act 2006*

**Modification of section 32 (meaning of “film production company”)**

4. In section 32 (meaning of “film production company”), in subsection (3), in relation to a film that commenced principal photography before 1st April 2006, omit “pre-production,” in both places.

**Modification of section 40 (conditions of relief: British film)**

5. In section 40 (conditions of relief: British film) at the end insert “for the purposes of film tax relief”.

**Modification of section 46 (films: withdrawal of existing reliefs (corporation tax))**

6.—(1) Modify section 46 (films: withdrawal of existing reliefs (corporation tax))(1) as follows.

(2) In the provisions listed below for the words “commences principal photography on or after 1st January 2007” substitute “is certified by the Secretary of State under Schedule 1 to the Films Act 1985(2) as a British film for the purposes of film tax relief and is intended for theatrical release at the time the film commences principal photography”.

The provisions are—

- subsection (1)(a);
- subsection (1)(b)(i);
- subsection (3)(a); and
- subsection (3)(b)(i).

(3) In subsections (1)(b)(ii) and (3)(b)(ii) for “1st October 2007” substitute “31st March 2008”.

**Modification of section 47 (films: withdrawal of existing reliefs (income tax))**

7.—(1) Modify section 47 (films: withdrawal of existing reliefs (income tax))(3) as follows.

(2) In the provisions listed below for the words “commences principal photography on or after 1st January 2007” substitute “is certified by the Secretary of State under Schedule 1 to the Films Act 1985 as a British film for the purposes of film tax relief and is intended for theatrical release at the time the film commences principal photography”.

The provisions are—

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- (1) Section 46 was amended by [S.I. 2006/3265](#).
- (2) [1985 c. 21](#); Schedule 1 was amended by section 578 of, and paragraph 9(1) and (2) of Schedule 2 to, the Capital Allowances Act 2001 ([c. 2](#)), sections 882 and 883 of, and paragraphs 397 and 399 of Part 2 of Schedule 1 to, the Income Tax (Trading and Other Income) Act 2005 ([c. 5](#)), [S.I. 1999/2386](#), [S.I. 2000/756](#), [S.I. 2006/643](#), [S.I. 2006/3430](#).
- (3) Section 47 was amended by [S.I. 2006/3265](#).

subsection (1)(a);  
 subsection (1)(b)(i);  
 subsection (3)(a); and  
 subsection (3)(b)(i).

(3) In subsections (1)(b)(ii) and (3)(b)(ii) for “1st October 2007” substitute “31st March 2008”.

#### **Modification of section 51 (supplementary provisions)**

**8.—**(1) In the substitution made by section 51(1) (supplementary provisions) for paragraph 80 (exclusion of films and sound recordings) of Schedule 29 to the Finance Act 2002 (corporation tax: gains and losses from intangible fixed assets)(**4**) modify substituted paragraph 80A(2)(**5**) as follows.

(2) In paragraphs (a) and (b) for the words “that commenced principal photography before 1st January 2007” substitute “to which Schedule 4 of the Finance Act 2006 does not apply”.

(3) In paragraph (b) for “1st October 2007” substitute “31st March 2008”.

#### **Modification of Schedule 4 (taxation of activities of film production company)**

**9.** In Schedule 4 (taxation of activities of film production company), in paragraph 1 (films to which this Schedule applies)(**6**) for the words “commence principal photography on or after 1st January 2007” substitute “are certified by the Secretary of State under Schedule 1 to the Films Act 1985 as British films for the purposes of film tax relief and are intended for theatrical release at the time principal photography commences”.

#### **Modifications of Schedule 5 (film tax relief: further provisions)**

**10.—**(1) Modify Schedule 5 (film tax relief: further provisions) as follows.

(2) In paragraph 1(1) omit the words from “, and” to the end.

(3) After paragraph 15 insert—

“**15A.** After section 6 of that Act insert—

“**6A.** Where the Secretary of State refuses an application for interim or final certification of a film as a British film for the purposes of film tax relief, Schedule 1A to this Act has 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 section 40D of the Finance (No. 2) Act 1992(**7**) (election for sections 40A and 40B not to apply) or Chapter 9 of Part 2 of the Income Tax (Trading and Other Income) Act 2005(**8**) (election relating to tax treatment of films expenditure).”.

(4) In paragraph 17, in the substituted paragraph 1 of Schedule 1 to the Films Act 1985 after “Schedule” insert “and Schedule 1A” in each place.

(5) In paragraph 19, in the substituted paragraph 3 of Schedule 1 to the Films Act 1985, in subparagraph (4) after “otherwise” insert “and except in relation to sections 46 and 47 (films: withdrawal of existing reliefs) of, and paragraph 1 of Schedule 4 (taxation of activities of film production company) to, the Finance Act 2006”.

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(4) 2002 c.23.

(5) Substituted paragraph 80A(2) was amended by S.I. 2006/3265.

(6) Paragraph 1 was amended by S.I. 2006/3265.

(7) 1992 c. 48; section 40D was inserted by section 578 of, and paragraph 82 of Schedule 2 to, the Capital Allowances Act 2001 (c. 2).

(8) 2005 c. 5.

(6) After paragraph 20 insert—

“**20A.** For paragraphs 4A to 4C of that Schedule(9) substitute—

“**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%;

(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;
  - (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).

**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%;
  - (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).

**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;

(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).”.

**20B.** In paragraph 4D(10) of that Schedule—

- (a) in sub-paragraph (4)(a) for “paragraph 4A(4)(a)” substitute “paragraph 4A(5)(a)(i)”;

- (b) for sub-paragraph (4)(b) substitute—
  - “(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.”;
  - (c) in sub-paragraph (5) for “paragraph 4A(4), 4B(4) or 4C(4) (points awarded in respect of the making of the film)” substitute “paragraph 4A(5), 4B(5) or 4C(5) (where work carried out)”.
- (7) After paragraph 25 insert—

## “PART 2A

### CERTIFICATION OF MASTER NEGATIVE, TAPE OR DISC OF A FILM AS A QUALIFYING FILM, TAPE OR DISC FOR THE PURPOSES OF SECTION 40D OF THE FINANCE (NO. 2) ACT 1992 OR CHAPTER 9 OF PART 2 OF ITTOIA 2005

- 25A.** After Schedule 1 to the Films Act 1985 insert—

#### “SCHEDULE 1A

Section 6A

### CERTIFICATION OF MASTER NEGATIVE, TAPE OR DISC OF A FILM AS A QUALIFYING FILM, TAPE OR DISC FOR THE PURPOSES OF SECTION 40D OF THE FINANCE (NO. 2) ACT 1992 OR CHAPTER 9 OF PART 2 OF THE INCOME TAX (TRADING AND OTHER INCOME) ACT 2005

#### *Preliminary*

- 1.**—(1) In this Schedule—

“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;

“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;

“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;



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

(2) 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 Finance Act 1982<sup>(11)</sup> as originally enacted or to a certificate issued in pursuance of that provision.

### **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 section 40D of the Finance (No 2) Act 1992, 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.

### **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 section 40D of the Finance (No 2) Act 1992 or, as 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.

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<sup>(11)</sup> 1982 c. 39. Section 72 was repealed in part by sections 6(2) and 7(1) of, and Schedule 2 to, the Films Act 1985, the remainder was repealed by section 164(4) of, and Schedule 2 to, the Capital Allowances Act 1990 (c. 1).

### **British films for purposes of the Schedule**

**4.**—(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).

(2) 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.

(3) This paragraph has effect subject to paragraph 5 (excluded films).

**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—
  - (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.

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

**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.

#### *Excluded films*

**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.

#### *Determination of disputes*

**6.—**(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.

#### *Application for certification*

**7.—**(1) The Films (Certification) Regulations 1985<sup>(12)</sup> shall apply to an application for certification under paragraph 2 as if a reference to Schedule 1 in those Regulations were a reference to this Schedule.

(2) For the purposes of subparagraph (1) the application under paragraph 2 shall be treated as an application to be determined by the Secretary of State in accordance with Schedule 1 as in force immediately before the commencement of the Films (Certification) Regulations 2006<sup>(13)</sup>

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<sup>(12)</sup> S.I. 1985/994, amended by S.I. 1999/2224, S.I. 1999/2334 and S.I. 2006/642.

<sup>(13)</sup> S.I. 2006/3281.