

**EXPLANATORY MEMORANDUM TO
THE CORPORATION TAX (TAXATION OF FILMS) (TRANSITIONAL
PROVISIONS) REGULATIONS 2007**

2007 No.

- 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 Select Committee on Statutory Instruments.

- 2. Description**

The Regulations provide for films already in production at 1 January 2007 to be able to receive the film tax relief introduced in Finance Act 2006.

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

Regulation 1(2) provides that the provisions of Chapter 3, Part 3 of Finance Act 2006 that the Regulations apply have effect as if they were in force at all material times. Authority for this retrospective effect is given by section 52(3)(a) of the Finance Act 2006.

- 4. Legislative Background**

4.1 Finance Act 2006 introduced new rules at sections 31-53 and schedules 4 and 5 setting out a comprehensive regime for the taxation of film production companies in respect of their film productions. These rules included a new, enhanced relief (film tax relief) for the production of British films (according to the definition in Schedule 1 Films Act 1985). The new rules replaced the previous reliefs for film production and acquisition at sections 40A-43 Finance (No 2) Act 1992. FA 2006 also withdrew (but did not replace) the parallel rules covering film production and acquisition by individuals.

4.2 Film tax 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 (which sets out the conditions for a film being certified as British). The new relief could not therefore be implemented until these changes had been made by SI 2006 No. 3430.

4.3 The new rules therefore came into effect on 1 January 2007 for films starting principal photography on or after that date (SI 2006 No 3399 named 1 January 2007 as the appointed day for the purpose of s53(1) FA2006, commencing the new rules, and SI 2006 No 3265 amended various dates in FA2006 so that the new rules applied to films commencing principal photography on or after 1 January 2007 rather than 1 April 2006).

4.4 The current Regulations, made under section 52 FA2006, allow earlier films (i.e. those commencing principal photography before 1 January 2007) access to the new films rules, and therefore potentially to film tax relief, provided that they qualify as British films under the conditions introduced by SI 2006 No. 3430.

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 then 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 at sections 31 – 53 and schedule 4 and 5 of FA 2006.

7.4 In the event, the delay in obtaining State aid approval meant that the rules did not apply from 1 April, as originally announced, but from 1 January 2007. The current Regulations are therefore designed to allow earlier films to access the new rules.

8. Impact

A Regulatory Impact Assessment was prepared for the new films tax rules which were introduced in FA 2006. No additional assessment has 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.