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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order updates the statutory test contained in Schedule 1 to the Films Act 1985 ("the Schedule") that is used to assess whether a film is culturally British. Films that are certified by the Secretary of State as having passed this test are entitled to apply for tax relief on film production costs in accordance with Part 15 of the Corporation Tax Act 2009. Paragraphs 4A to 4C (applying to films, documentaries and animations respectively) of the Schedule set out points-based systems based on a number of criteria, including the setting, subject matter, characters, language, location of work and participants in the production of the film.

Article 2 provides for application and exempts certain films from the amendments made by the Order. Article 2(2)(a) exempts films if the latest version of the Schedule (as provided by the Films (Definition of "British Film") (No 2) Order 2006) does not apply in relation to them. Article 2(2)(b) provides that the test will not apply if an application for certification is made prior to the entry into force of the Order. Article 2(2)(c) and 2(3) provide that if principal photography or shooting has commenced before the entry into force of the Order, but no application for certification has been made, the film production company may elect to have the amendments made by this Order not apply to that film; accordingly such films are assessed against the applicable rules for that film as if this Order had not been made.

Articles 3 to 5 amend the cultural test in paragraphs 4A to 4C of the Schedule. The amendments—

- (a) increase the points available if certain percentages of film production work (50% and 80%) takes place in the UK,
- (b) increase the points available for language use, and
- (c) provide that points awarded for a film's British setting, subject matter, characters and language will equally be awarded for setting etc relating to other EEA states.

The effect of the changes is that the number of points available changes from 31 to 35. The pass mark is accordingly changed from 16 to 18 points.

Article 6 amends paragraph 4D of Schedule 1, which contains various definitions and interpretative provisions.

The impact on business, charities and voluntary bodies of this Instrument has been included in the assessment published by HMRC concerning the impacts of wider changes to the operation of film tax relief. That assessment (which remains an accurate summary of the impact) can be accessed at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/264454/8\\_Modernising\\_film\\_tax\\_relief.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264454/8_Modernising_film_tax_relief.pdf). No significant impact on the public sector is foreseen, and therefore no separate impact assessment has been prepared.