

1985 No. 994

CINEMATOGRAPHS AND CINEMATOGRAPH FILMS

The Films (Certification) Regulations 1985

<i>Made - - - -</i>	<i>1st July 1985</i>
<i>Laid before Parliament</i>	<i>2nd July 1985</i>
<i>Coming into Operation</i>	<i>23rd July 1985</i>

The Secretary of State, in exercise of the powers conferred on him by paragraph 10(1), (4) and (5) of Schedule 1 to the Films Act 1985(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Films (Certification) Regulations 1985 and shall come into operation on 23rd July 1985.

Interpretation

2. In these Regulations—

“acquirer” in relation to a film, means any person who has acquired any description of rights in it;

“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 is to be treated as if it were a British film for the purposes of Schedule 1 to the Act;

“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(b);

“Member State” means a Member State of the European Economic Community; and

“television film” means a film which has been made primarily for the purpose of being broadcast on television.

Applications

3. An application under paragraph 2(1) of Schedule 1 to the Act for the certification of a master negative, master tape or master disc of a film, other than a co-production film, as a qualifying film, qualifying tape or qualifying disc shall be made in writing to the Secretary of State and be addressed to the Assistant Secretary, Films Branch, Department of Trade and Industry.

(a) 1985 c. 21.

(b) 1985 c. 6.

Particulars

4. The application shall set out the following particulars of the film:
- (a) in the case of a television film, particulars A to G and I and L set out in Regulation 6 below;
 - (b) in all other cases, particulars A to K set out in Regulation 6 below.

Evidence

5. The application shall be accompanied by:
- (a) a statutory declaration made by the applicant as to the truth of the particulars given in the application; and
 - (b) in respect of particulars J, K and L set out in Regulation 6 below, where they are required to be given by virtue of Regulation 4 above, a report to the Secretary of State verifying those particulars prepared by an accountant being a member of a body of accountants for the time being recognised for the purposes of section 389(1)(a) of the Companies Act 1985(a) or by a person authorised under section 389(1)(b) of that Act to be appointed as auditor of a company, who, in either case, is not and was not at any time while the film was being made, a partner of, nor in the employment of, the maker of the film or, where the maker of the film is a company, is not, and was not at any time while the film was being made:—
 - (i) an officer or servant of that company or, if that company is a member of a group of companies, of any other company in that group; or
 - (ii) a partner of, or in the employment of, any such officer or servant.

List of Particulars

6. The particulars referred to in Regulation 4 above are as follows:—
- A. The title of the film or, in the case of a series of films or a part thereof, the title of the series or part;
 - B. The following details about the maker and, if applicable, the acquirer of the film—
 - (i) in the case of an individual:
 - (a) his name and nationality, and
 - (b) the address of his principal place of business;
 - (ii) in the case of a partnership:
 - (a) the name of the partnership,
 - (b) the name and nationality of each partner, and
 - (c) the address of the partnership's principal place of business,

- (iii) in the case of a company:
 - (a) the name of the company,
 - (b) the address of the company's principal place of business,
 - (c) the address of the company's registered office throughout the time the film was made,
 - (d) the country under the laws of which the company was incorporated, and
 - (e) the names and nationalities of its directors throughout the time the film was being made.
- C. The date on which photography began.
- D. The date on which the film was completed.
- E. The total playing time in minutes of the film, including credits and titles.
- F. Whether all studio and location scenes used in the film were photographed in the United Kingdom; and if not the following details in relation to each scene photographed outside the United Kingdom:
 - (i) whether the scene was shot in a studio or on location,
 - (ii) the address of the studio or as the case may be the location,
 - (iii) the playing time of the scene in minutes and seconds,
 - (iv) whether the scene was photographed by the maker or under his direction and if not the name of the person who photographed it or under whose direction it was photographed.
- G. Whether all the sound recordings and re-recordings used in the film were made in the United Kingdom; and if not the following details in relation to each sound recording made outside the United Kingdom:
 - (i) the address of the studio,
 - (ii) the playing time of the recording in minutes and seconds,
 - (iii) in the case of sound recordings not made in any Commonwealth country or the Republic of Ireland, the scenes detailed by the applicant under F above to which those recordings relate.
- H. Whether the applicant wishes to request that certain portions of the film be treated as if they did not form part of it pursuant to paragraph 4(4) of Schedule 1 to the Act and if so:
 - (i) the portions to which the request relates, their maker and their playing times in minutes and seconds with reference to the particulars provided under F and G above,
 - (ii) the aggregate playing time of the portions, to the nearest minute, together with the net playing time after the deduction of the playing time of those portions from the total playing time of the film.
- I. The playing time of any parts of the film derived from any other film.

- J. Whether all persons who were directly engaged in the making of the film were:
- Commonwealth citizens, or
 - citizens of a Member State, or
 - persons ordinarily resident in a Commonwealth country or a Member State,
- and if so:
- (i) the total amount paid or payable in respect of labour or services,
 - (ii) the labour costs per minute of playing time,
- including all deferred and contingent payments and where the precise amount of any such payment will not be known till later an estimate must be made.
- K. Where there were persons in both the following classes directly engaged in the making of a film:
- Class A* Commonwealth citizens, citizens of a Member State and persons ordinarily resident in a Commonwealth country or a Member State
- Class B* Other persons
- or only in Class B, then the amounts paid or payable in respect of the labour or services of the following categories of persons, specifying in each case separate figures for persons who are in Class A and those who are in Class B and including deferred and contingent payments and where the precise amount of such payments will not be known till later an estimate must be made:
- (i) Persons (subject to any election under (iv) below) in respect of whom the total amount paid or payable amounts to at least 1 per cent. of the total labour costs or £5,000 whichever is the less except where the total labour costs are less than £10,000 in which case persons earning more than £100; the total figures shall be broken down into separate sub-totals for:
 - (a) actors, actresses and musicians,
 - (b) all other persons;and a list shall be provided giving the name, functions, nationality, permanent place of residence and amount paid or payable to each of the persons in this category, indicating in which of the sub-totals for (a) or (b) the payment has been included;
 - (ii) Persons (subject to any election under (iv) below) other than those mentioned under (i) above; the total figures shall be broken down into separate sub-totals for:
 - (a) actors, actresses and musicians,
 - (b) all other persons, and
 - (c) living expenses;

and in the case of (a) the total number of such persons shall be indicated;

- (iii) Persons paid labour charges for processing and titling;
 - (iv) Whether the applicant elects to deduct from the total labour costs of the film the amounts paid or payable in respect of one person under paragraph 7(2)(a) of Schedule 1 to the Act or in respect of any two persons under paragraph 7(2)(b) of that Schedule, and if so the name, function, nationality of and amount paid or payable to that person or persons;
 - (v) The total for Class A and Class B of the labour costs under (i), (ii) and (iii) above, together with the percentage which the total for Class A above is of this combined total;
 - (vi) The total labour costs for the whole film;
 - (vii) Labour cost per minute of playing time.
- L. Whether, in relation to the film or films to which the application relates, not less than the requisite amount of labour costs (as determined under paragraph 7) represents payments paid or payable in respect of the labour or services of Commonwealth citizens or citizens of any Member State or persons ordinarily resident in a Commonwealth country or Member State.

Statutory Declarations

7. A statutory declaration under Regulation 5(a) above shall be deemed to have been made by the applicant if

- (a) in the case of an application by a partnership, it has been made on behalf of the partnership by one of the partners, or
- (b) in the case of an application by a company, it has been made on behalf of the company by the Secretary or one of the directors of the company or by any person duly authorised by the company to make the declaration on its behalf.

Norman Lamont,
Minister of State,
Department of Trade and Industry.

1st July 1985.

EXPLANATORY NOTE

(This Note is not part of the Order.)

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 partnership or company. For the convenience of applicants, forms on which the information required by the regulations may be given, together with a form of statutory declaration, are available from the Films Branch, Department of Trade and Industry.

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