

GUIDANCE NOTES ON THE EC CERTIFICATE OF NATIONALITY

BACKGROUND

These certificates are issued under a provision of the 1963 EC First Films Directive (63/607/EEC), which laid down uniform criteria for the recognition of the nationality of films from EC member States.

Some EC countries, for example Italy and Spain, may have quotas on the number of non-EC films exhibited in their countries. Therefore exporters and importers of British films may ask for a Certificate of Nationality to evidence that the film is indeed a British film (rather than, say, an American film) in order to qualify for the benefit of any screen quota in such countries.

The EC certificate of nationality is of no use for purposes of UK tax reliefs for film.

CRITERIA

Applications may be made by nationals and companies of EU member States. Criteria for eligible films were laid down by the EC and are based on the following:

1) who makes the film: the persons or company producing the film must be a national or company of an EU member State.

2) where the filming is done: any or all of the outdoor scenes may be filmed anywhere in the world. Normally all studio filming must take place in studios situated in EC territory; however in the event that any outdoor scenes are filmed in a third country (non-EC territory), up to 30% of all the studio scenes can also be shot in that country and at least 70% of all the studio scenes must be shot in EC territory.

For the part of the form marked "studios", the most helpful approach is for an applicant to state both the countries in which location work was done, marked "location", and the country in which studio work was done, marked "studio". If there was no studio filming, you should add "no studio filming" or "shot entirely on location": this adds clarity when we assess the application. Nothing else is needed for this category: there is, for example, no need to enter details of the location of any post-production facilities unless they are undertaking work which might be considered as shooting.

3) language in which the film is made: one of the UK's indigenous languages.

4) personnel: Here are the alternative formulas according to the various nationals employed in specific categories on the film:

- where the director is a British or EC national* and all persons in categories 1 and 2 (writers and composers) are British or EC nationals: a simple majority of persons employed in categories 3-9 (below) must also be British or EC nationals;

- where the director is a British or EC national but not all persons in categories 1 and 2 (writers and composers) are British or EC nationals: third country nationals must not comprise more than two-fifths (40%) of persons employed in all the categories 1-9;

- where the director is a non-British and non-EC national: all persons in categories 1 and 2 (writers and composers) must be British or EC nationals; and non-British and non-EC nationals must not comprise more than one-fifth (20%) of persons employed in categories 3-9.

(British includes nationals from countries considered to be within the cultural domain of the United Kingdom for purposes of the EC certificate of nationality.)

* Nationals from three of the countries which are party to the European Free Trade Agreement (EFTA), i.e. from Iceland, Norway and Liechtenstein, must be granted equivalent status as nationals from EC member States with regard to the provisions of the Directive. This relates to the fact that there is provision for non-discrimination on the grounds of nationality under the European Economic Agreement which came into force in the UK on 1 January 1994 and extended the provision of the EC's single market to the five EFTA states. Switzerland also has a non-discrimination treaty with the EU.

- the 9 categories are as follows:
 - (1) writers of the scenario, adaption and dialogue.
 - (2) composers of music specially written for the film
 - (3) principal cast
 - (4) executive producer (or production manager)
 - (5) director of photography
 - (6) sound engineer
 - (7) editor
 - (8) art director
 - (9) chief of wardrobe

TELEVISION PROGRAMMES AND ANIMATION FILMS

In the case of television programmes and animation films, to satisfy that the criteria have been met, we will still require the fullest possible details to be entered on the Technical Details page of the

application form. For instance in the case of documentaries or animation, for "Actors", a narrator or voice-over artists may be entered, or, for Director of Photography you may put someone who supervised the filming or the taking of the photographs or similar role.

Generally where possible, something should be put on the form. If one person performed more than one of the roles listed on the form, the same name may be entered on each occasion.

If no-one fulfilled certain roles, for example, say, "Chief of Wardrobe", please write "no personnel for this category" in the appropriate box. This may avoid questions being raised in the countries to which your technical details will be sent, and should speed up the process of exporting the film.

CO-PRODUCTION FILMS AND THE 1963 EC DIRECTIVE

UK producers involved in international co-production films may wish to note the following. Films co-produced under the terms of reciprocal international co-production agreements and made by producers from member States, or made by producers from member States in co-operation with producers from third countries, are eligible for an EC certificate of nationality without fulfilling all of the criteria set out above, on condition that the artistic and technical contribution of the member State or States in question was not less than 30%. Such certificates may be issued by DCMS on request any time after the film has received final co-production status from DCMS. In that event there is no need to complete the usual two-page certificate of nationality application form, and a simple written request for a certificate of nationality for the official co-production would suffice.

Alternatively, an application for a certificate of nationality for a co-production film may be made on the usual two-page form any time after the film is finished.

STATUTORY DECLARATION

The Statutory Declaration ("the oath"), on the first page of the form, is required to verify the details of the application. The oath must be made before a person authorised by law to administer an oath: for example a Justice of the Peace, notary public, or Commissioner for Oaths.

- The person administering the oath must be independent of the production.
- Under section 5 of the Perjury Act 1911 and section 2 of the False Oaths (Scotland) Act 1933, a person making a false statutory declaration is liable on conviction to imprisonment for any term not exceeding two years, or a fine or both.
- Where any additional sheet(s) is/are submitted as an addendum to the application:
 - (i) mention of the addendum should be made in the appropriate place on the application form;
 - (ii) each page of any addendum should be signed by the same person making the application, and signed and stamped by the person (eg solicitor) administering the oath to show that the addendum formed part of the application when the statutory declaration was made.

Applications must be submitted with the original statutory declaration (copies are not accepted).

WHAT IF WE NEED MORE THAN ONE CERTIFICATE?

You only need to complete one application form. Say on a covering letter how many original certificates you need us to supply. DCMS may also, on receipt of a written request, produce further "original" certificates of nationality in the future for the same film without any need to complete the application form again.

CAN WE APPLY FOR A "CERTIFICATE OF ORIGIN"?

A "certificate of origin" is not issued by DCMS but may be issued by the Chambers of Commerce.

Creative Industries Division (Films)