

THE BENEFITS OF QUALIFYING AS A BRITISH FILM UNDER THE FILMS ACT 1985

DCMS can certify films as British films where they meet the qualifying criteria. Applications for certification as a British film can be made by either the maker or acquirer of the negative, tape or disc. Films may qualify for certification either:

- a) by satisfying the specific provisions of Schedule 1 under the 1999 amended criteria; or
- b) **by satisfying the terms of one of the UK's co-production treaties.**

Texts The text of Schedule 1 to the Films Act 1985, with a summary and guidance, may be accessed at:

www.culture.gov.uk/creative_industries/film/CriteriaforBritishfilms.htm

The texts of the UK's co-production treaties, with separate guidelines, may also be accessed at the same web-location. All these documents are also available from the Department for Culture, Media and Sport. The following are DCMS's film certification contact points:

e-mail: filmcertification@culture.gsi.gov.uk

tel: 020 7211 6435 or 6436 or 6476; fax: 020 7211 6417;

or write to: Film certification officer, Creative Industries Division,

Department for Culture, Media and Sport,

4th Floor, 2-4 Cockspur Street, London, SW1Y 5DH.

Tax Benefits Having a film certified as a British Film is necessary for access to the tax benefits particular to film. These relate to Sections 40A to 43 of the Finance (No.2) Act 1992 and Section 48 of the Finance (No.2) Act 1997. The latter introduced 100% tax relief for production and acquisition expenditure for British qualifying films costing £15m or less. The Revenue has published guidance on how they presently treat tax relief for film, including s48 tax relief. This is at:

www.inlandrevenue.gov.uk/manuals/bimmanual/BIM50000.htm

Queries about this should be directed to the Inland Revenue. An Inland Revenue document entitled "Avoidance using exits from businesses that have accessed film tax reliefs" is available on their web-site, using their search facility, and you may wish to note it includes relevant Inland Revenue contact details. Another Inland Revenue document called "tax avoidance using film and partnership reliefs" can be found at the same link: www.inlandrevenue.gov.uk

Sale and Leaseback Access to film tax benefits is often via a sale and leaseback deal whereby a film maker sells the negative to an acquirer, eg a bank, who then leases it back again to the maker for exploitation purposes. The acquirer sets off its expenditure against its own tax liabilities using the advantageous tax provisions for film set out above. It is able to pass on some of the benefits it gains in terms of cashflow to the film-maker through favourable terms in the lease. The benefit to the film-maker is generally around 10% of the production cost. The mechanism is used for both larger budget films and packages of smaller budget films. DCMS does not provide a list of those firms who arrange sale and leaseback products.

PRODUCTION FUNDING There is no automatic support for film in the UK. However, having a film certified by DCMS as a British film may be important for the elective support available from these bodies:

i) The UK Film Council, 10 Little Portland Street, London, W1N 5DF. Tel: 020 7861 7861/ Fax: 020 7861 7866 www.filmcouncil.org.uk

ii) Lottery Unit, The Arts Council of Northern Ireland: Tel 028 9038 5200/ Fax 028 9066 1 715 www.artscouncil-ni.org

iii) Lottery Unit, The Arts Council of Wales: Tel 029 2038 8288/ Fax 029 2039 5284 www.ccc-acw.org.uk

iv) Lottery Department, Scottish Screen: Tel 0141 302 1700/ Fax 0141 302 1711 www.scottishscreen.com

In the case of such funding, producers should be aware that these bodies have other considerations to take into account when making funding decisions.

EC Certificates of Nationality

British film certification under the Films Act 1985 by DCMS is not directly related to the issuing of EC certificates of nationality.

To facilitate distribution of films in and by the European Community, an EC Directive was issued in 1963 (63/607/EEC) providing for freedom to distribute and exploit films. That directive is no longer in force. However, many European countries continue to seek evidence that English-language films originate in the European Community. Therefore, EC certificates of nationality continue to be issued in the UK by DCMS.

Details of the rules and application procedure are set out on the DCMS website.

FILM CLASSIFICATION

British film certification is not directly related to "film classification". Film classification by the BBFC is for censorship purposes, whereas British film certification under the Films Act 1985 by DCMS is a gateway to film tax reliefs.

CINEMAS ACT 1985

British film certification under the Films Act 1985 by DCMS is not directly related to the licensing (and exemption) of premises for showing films under the Cinemas Act 1985.