

**Department for Culture, Media and Sport**

**Films Branch (Creative Industries Division)**

**GUIDANCE NOTES – JUNE 2006**

**SCHEDULE 1 TO THE FILMS ACT 1985**

**For films starting principal photography on or after 1<sup>st</sup> April 2006**

**INDEX**

<b>PAGE NUMBER</b>	<b>CONTENTS</b>
	INTRODUCTION
	APPLICATIONS
	DEFINITION OF A BRITISH FILM
	ACCOUNTANT'S REPORT FOR FINAL APPLICATIONS
	STATUTORY DECLARATION FOR FINAL APPLICATIONS
	Annex A: CULTURAL TEST FOR FILMS
	Annex B: CULTURAL TEST FOR ANIMATION FILMS
	Annex C: CULTURAL TEST FOR DOCUMENTARY FILMS
	Annex D: SCHEDULE 1 TO THE FILMS ACT 1985

## **INTRODUCTION**

1. Schedule 1 to the Films Act 1985 sets out the application procedure and the requirements to be satisfied for a film to be certified as a British film. Obtaining certification of a film as a British film from DCMS is a condition for making claims to HM Revenue & Customs (HMRC) for film tax relief. In order to be eligible for Lottery funding a film must be wholly or substantially capable of satisfying the definition of a British film in order to receive Lottery funding from the UK Film Council (UKFC).

2. These guidance notes apply to an application for certification of a film for which the first day of principal photography is on or after 1<sup>st</sup> April 2006. The guidance notes issued in February 2002 apply to applications for films which began principal photography before this date.

3. Schedule 1 was modified by the Films (Definition of "British Film") Order 2006 to introduce a requirement to pass the Cultural Test for British Films before a film can be certified as British. Schedule 1 will also be amended by the Finance (No.2) Bill to reflect the new film tax relief introduced by that Bill. These amendments allow DCMS to issue interim certificates before a film has been completed and ensure consistency of Schedule 1 with the provisions of the new tax relief.

4. The Finance Bill will receive Royal Assent later this year, but its provisions relating to film tax relief, including the amendments to Schedule 1 to the Films Act, have effect from 1<sup>st</sup> April 2006. Therefore, any applicant seeking certification of a film for the purposes of the new relief must consider Schedule 1 as amended by the Finance (No.2) Bill. Accordingly, these guidance notes have been drafted to take account of those amendments. A version of Schedule 1 as amended by the 2006 Order and Finance (No.2) Bill is attached at Annex D.

### **Tax relief & Lottery Funding**

5. Details about the new film tax relief are available in the Finance (No.2) Bill published on 7<sup>th</sup> April 2006. Please see: <http://www.hmrc.gov.uk/films/index.htm>. This guidance only relates to the requirement to pass the cultural test and is not relevant to the other criteria for film tax relief in the Finance (No 2) Bill. Those criteria are administered by HMRC and they will issue separate guidance. In particular, the definition of expenditure on work carried out in the UK for the purposes of Section B of the cultural test is entirely separate from the definition of UK expenditure which is applied for the purposes of tax relief.

6. Full details about Lottery funding are available from the following:

<http://www.ukfilmcouncil.org.uk/funding/>

<http://www.scottishscreen.com/>

<http://www.artwales.org.uk/>

<http://www.niftc.org.uk/>

### **Co-productions and EC certificates of nationality**

7. These guidance notes do not apply to co-productions. Separate guidance notes are available from the DCMS website. Film-makers desiring British film status should consider before they make their film whether the Schedule 1 route is appropriate for their production. Applicants who would not satisfy the Schedule 1 route may find the alternative of international co-production more appropriate for a production.

8. When British films are exported (i.e. for distribution purposes) to other member States of the European Union an “EC certificate of nationality” may be requested. This is different from a certificate of a British Film. A note outlining how to obtain an “EC certificate of nationality” is available on our web-site.

## **APPLICATIONS**

### **Applicant**

9. An application for certification must be made by the film production company. That is, a company that:

(a) is responsible: (i) for pre-production, principal photography and post-production of the film; and (ii) for delivery of the completed film;

(b) is actively engaged in production planning and decision-making during pre-production, principal photography and post-production, and

(c) directly negotiates, contracts and pays for rights, goods and services in relation to the film.

10. Company means a limited company within the charge of UK Corporation tax. Individuals, partnerships and limited liability partnerships cannot apply for certification.

11. There can only be one film production company in relation to a film. If there is more than one company meeting this description then the company most directly engaged in these activities is the film production company.

### **Interim certification**

12. There is no requirement to apply for an interim certificate. An application may be made for such a certificate if a film production company wants to apply for film tax relief before the film is completed. An interim certificate will be issued before a film is completed if DCMS is satisfied that the film passes the cultural test based on the proposals set out in the application.

### **Final certification**

13. Final certificates will only be granted after the film is completed. Applications for a final certificate should therefore never be submitted prior to completion of a film.

A film is completed when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public.

14. A film should be ready, for instance, for a broadcaster to broadcast it to the general public, or for the general public to pay to see it. A temporary version is not finished. Where it is expected that further work needs to be done on a film it is deemed to be incomplete. Whether alterations are paid for by the FPC or by a distributor does not in itself determine when a film is finished.

### **Application Process**

Application forms are available on our web-site at: [www.culture.gov.uk/creativeindustries/film/](http://www.culture.gov.uk/creativeindustries/film/)

or write to: Film Certification Officer, Creative Industries Division, DCMS, 2-4 Cockspur Street, London SW1Y 5DH

or telephone: 020 7211 6476

or e-mail: [filmcertification@culture.gsi.gov.uk](mailto:filmcertification@culture.gsi.gov.uk).

15. Please ask for the precise application form you need: feature film, documentary or animation. Applicants should read these guidance notes when completing an application form. They should also check the legislation (Schedule 1 and new tax relief in Chapter 3 of Part 3 of the Finance (No 2) Bill) to ensure that their film meets all the requirements. Incomplete or incorrectly completed applications lead to delay. The DCMS will provide guidance to applicants to any queries about the application process and the requirements in Schedule 1. There is no charge for processing applications or for issuing a certificate.

16. DCMS will normally issue certificates within 28 days of the receipt of a fully completed application form. Applicants are advised that DCMS cannot guarantee that certificates will be issued by a particular date. Delays may occur where application forms are not properly completed or where it is necessary to seek further information or during seasonal peaks of work (usually around 5<sup>th</sup> April). Where applicants are aware of a deadline by which a certificate will be required, they should submit their application in good time and attach information about the deadline. DCMS accepts no liability for any missed deadlines.

17. An applicant may be asked to provide supporting evidence and, where necessary, to arrange for the film to be seen by DCMS.

18. Where DCMS believes that an application fails to meet the requirements of Schedule 1, the applicant will be informed that the application may be rejected, and will be offered opportunity to make representations to DCMS before a final decision is made. Rights of appeal are set out in paragraph 9 of Schedule 1 to the Films Act 1985. No aspect of the approval of any previous application should be seen as a precedent. DCMS considers each application on its own merits.

19. Completed application forms and additional documents (see the application forms for details) should be sent to DCMS at the address above. Do not email your application to DCMS.

20. Type or write the information required clearly using black ink. Do not use correction fluid. Amendments may be made by crossing out any error and initialling the change before the statutory declaration is made. Except where directed to, do not leave boxes in the application form blank. Where in doubt about production plans enter what you think the correct information is or will be adding “to be confirmed” or “to be decided”. The application will be rendered incomplete by:

- deleting any sections or parts of the application form;
- leaving boxes blank or omitting from your form relevant information, even if it is evidenced elsewhere in the application form (such as the budget); or
- failing to submit the required documentation.

### **DEFINITION OF A BRITISH FILM**

21. In order to be certified as a British film DCMS must be satisfied that the film passes the cultural test. The main cultural test is set out in paragraph 4A of Schedule 1. Alternative tests for animation and documentaries are set out in paragraphs 4B and 4C respectively. Annexes A to C of these guidance notes set out the statutory framework of the cultural test and how DCMS intends to interpret and operate the tests.

22. A film will pass the cultural test if it is awarded 16 points out of a possible 32 points. Applicants must fill out all the parts of the application form. Where an applicant does not score points on a category they should note that as zero '0'.

23. If, in the Department's opinion, the amount of work carried out in respect of any category under Section B (cultural hubs) of the cultural test is insignificant in relation to the total amount of work carried out in making the film no points shall be awarded. Accordingly, the Department has discretion to disallow points. This will be handled on a case-by-case basis and is designed to exclude token amounts of work undertaken solely for the purpose of gaining points under this test.

24. In the unlikely event that the applicant is submitting a series of films (such as a television series), DCMS should be consulted about whether the whole series can be treated as a single film (and about requirements for such applications) or whether separate applications need to be made for each part of the series (and about requirements for such applications).

### **Archive footage test**

25. No more than 10% of the playing time may include parts derived from any other film unless those parts: (i) were made by the same FPC or producer; and (ii) had not been previously certified as a British film (including co-productions). In these guidance notes, for convenience, any such parts are referred to as “archive material”. For the purposes of this test ‘producer’ means the person by whom the arrangements

necessary for the making of the film were undertaken.

26. There is no restriction on how much of its own uncertified material that it has made a FPC uses. If a FPC is re-using material already used in one of its own films, and is unsure whether it had been certified, DCMS can be consulted about its list of films certified.

27. Sound from an old film can be used on the soundtrack of a new film. The 10% limit applies to visual images/pictures only, not to sound.

28. The Secretary of State can exercise discretion to waive the 10% rule where she considers that a film is a documentary and also considers that it is appropriate for more than 10% of that film to comprise archive material in the light of its subject matter. A documentary means a factual or realistic film based on real events, places or circumstances and intended primarily to record or inform.

29. The 10% limit will apply whether archive material is a main focus of a scene or incidental to a scene; whether the images are shown in a collage or in split-screen; whether the images are filling all or part of the frame; whether the images are framed by graphics or by a set or a prop (e.g. a scene with a cinema screen or with a prop television); whether the images are showing in the background or the foreground, in close-up or in longer shot; whether the images are altered in any way.

30. Common screen titles and credit sequences are treated as original material only on the first occasion on which an application for a part or series in which they appear is certified: if any subsequent series or part is put forward for certification with those common titles and/or credit sequences, they will be parts of a previously certified work: the 10% limit will apply.

31. The 10% rule is invoked if a FPC completes another FPC or producer's unfinished film (e.g. where a special purpose company completes a film begun by a parent company).

### **ACCOUNTANT'S REPORT FOR APPLICATIONS FOR FINAL CERTIFICATION**

32. The Films (Certification) Regulations 1985 require that the application form includes a report to the Secretary of State prepared by:

(a) an accountant who is a member of:

The Institute of Chartered Accountants in England and Wales,  
The Institute of Chartered Accountants in Scotland,  
The Association of Chartered Certified Accountants, or  
The Institute of Chartered Accountants in Ireland;

or (b) a person recognised under section 34 of that Act to be appointed as Auditor of a Company; and

33. The person preparing the report, in either case, must not be and must not have

been at any time while the film was being made in partnership with, nor in the employment of the FPC and must not and must not have been 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) in partnership with, or in the employment of, any such officer or servant.

34. A firm of accountants' which provides to an applicant: production accounting functions; or advice or services on the structure of their production, or on any issues concerning their applications, would not be considered by DCMS to be independent of the applicant. However, accountants can undertake preparatory work for their audit, and give guidance on general accounting principles.

35. The report must verify:

(a) the nationality and ordinary residence of all the persons in relation to whom the applicant is seeking points to be awarded under Section C of the cultural tests;

(b) the total expenditure on all the work carried out in the making of the film;

(c) the total expenditure on any element of Section B of the cultural tests in relation to which the applicant is seeking points to be awarded and the expenditure on that element carried out in the UK;

36. The report must also state whether, in the opinion of the person making the report, any point should be awarded under Section B of the cultural tests.

37. DCMS expects applicants to provide auditors with copies of passports and/or other evidence of nationality and/or evidence of country of ordinary residence. DCMS recommends that, during the making of a film, records be kept of the nationalities/places of ordinary residence of all persons for which the applicant will seek to points to be awarded under Section C. DCMS is content for auditors to take account of decisions taken by HMRC or relevant foreign tax authorities in order to determine whether a person is ordinarily resident in the UK or a member State. It may be possible in some circumstances to obtain written confirmation of residency status from HM Inspector of Taxes or the relevant foreign tax authorities. Such evidence should be provided to auditors and a copy may be requested by DCMS.

38. The report should not be dated before the date of the application, as it is a report on the application. The original signed accountant's report on the accountant's own letter-headed paper should be addressed to: Film Certification Officer, Creative Industries Division, DCMS, 2-4 Cockspur Street, London SW1Y 5DH.

39. The report is not required for applications for interim certification.

### **STATUTORY DECLARATION**

40. The Films (Certification) Regulations 1985 require the applicant to make a statutory declaration as to the truth of the particulars given in the application. (The independent auditor's report does not need to be covered by a statutory declaration.)

41. This statutory declaration may be made either before a practising solicitor, general notary, justice of the peace or other officer authorised by law to administer a statutory declaration under the Statutory Declaration Act 1835. He/she should be independent of the production and from anyone with a financial interest in the film. It is an offence knowingly and willingly to make a materially false statement in a statutory declaration.

42. A person making a false statutory declaration is liable on conviction to imprisonment for a maximum of two years (where conviction follows a trial on indictment), or a fine or both.

43. If the applicant wishes to make the statutory declaration while outside the United Kingdom, it should not be assumed that anyone they go to is authorised under the Statutory Declaration Act 1835 bearing in mind that this is a piece of British legislation. Applicants should make sure that their declaration will be valid. The British consul is authorised to administer a statutory declaration for this purpose.

44. Where any additional sheets are submitted as an addendum to the application:

(a) mention of the addendum should be made in the appropriate place on the application form;

(b) each page of any addendum should be signed by the same person making the application, and signed and stamped by the person (e.g. solicitor) administering the statutory declaration to show that the addendum formed part of the application when the statutory declaration was made.

45. Once the statutory declaration has been made the application form cannot be altered without making another statutory declaration to cover the amendments. Therefore, where an applicant has any doubts about whether all of the form has been entered correctly, he may wish to seek independent legal advice or to submit the form to DCMS in draft for DCMS to check before the statutory declaration is made.

46. A statutory declaration is required for both applications for interim and final certification.

**CULTURAL TEST FOR FILMS (NOT ANIMATIONS OR DOCUMENTARIES)****Section A – Cultural Content**

A1 Film set wholly/mainly in the UK 1 point

1 point will be awarded if at least 50% of the film is set in the United Kingdom.

A film is set in the UK if the story takes place in the UK. It does not matter where the film is actually shot. For the purpose of the test a film is set in the UK if it is set in any country (England, Scotland, Wales or Northern Ireland) which is now part of the UK.

A film that is set in a fictionalised version of the UK will be considered to be set in the UK. However, a film set in a purely fictional setting will not be treated as set in the UK.

This will be measured by counting the number of pages in the script which are set in the UK.

A2 Principal characters British citizens or residents 1 point

1 point will be awarded if at least one of the three principal characters depicted in the film is a British character.

A character is a British character if he or she is a British citizen or a person resident in the UK. For the purposes of the test British includes any nationality of a country (English, Scottish, Welsh, Northern Irish) which is now part of the UK. British character also includes any character who, at the time the film was set, was a British subject in the UK's colonial territories e.g. Mahatma Gandhi.

Where it is not immediately apparent from the film, applicants will be asked to explain why the character should be regarded as a British character.

The three principal characters will be determined by taking account of centrality and prominence of the character in the story. Applicants will be asked to identify the three principal characters and make the case for a character's centrality and prominence in the story.

A3 Film based on British subject matter or underlying material 1 point

1 point will be awarded if the film depicts a British story. A film depicts a British story: (a) if the subject matter of the film is British; or (b) if the underlying material on which the film is based is British.

In relation to (a) the subject matter is British, for example, if the film is about a British historical event even though it is not set in the UK; or the film is about a British historical or fictional character. Applicants will be asked to make a case for how their

film depicts a British story.

In relation to (b) the underlying material e.g. book, short story, game, original screenplay, article is written by a British citizen or resident.

A4 Original dialogue recorded mainly in English language 1 point

1 point will be awarded if at least 50% of the original dialogue is recorded in the English language or in a recognised regional or minority language. The UK has 6 indigenous minority languages under the Council of Europe's Charter for Minority or Regional Languages (Scottish-Gaelic, Welsh, Irish, Scots, Ulster Scots and Cornish). This list may be updated as further languages are added under the Charter.

Original dialogue will be measured by the number of words spoken against the total number of words of dialogue in the script. Dialogue can include narration but not stage directions.

Total for Section A - 4 points

**Section B - Cultural Hubs**

Except for principal photography the amount of work on a particular film-making activity in this section will be calculated by the amount of expenditure on that work. In order to calculate the proportion of the expenditure on a film-making activity that is carried out inside the UK it will be necessary to analyse production costs on the basis of where a person works on a film, where goods are supplied from and where the services are performed.

Where expenditure on a film-making activity is split between activity inside and outside the UK then the apportionment of expenditure must be made on a fair and reasonable basis. Normally we would expect this to be done on a time-basis calculated on calendar days. For example, a visual effects supervisor is hired (i.e. as part of expenditure on visual effects), and for a third of his time on the film **works** inside the UK, and two-thirds of his time outside the UK. One-third of his labour costs should be attributed to work inside the UK and two-thirds to work outside the UK.

Any living expenses of persons directly engaged in a cultural hub's work and incurred for the purposes of production (e.g. staying in a hotel in the UK) should be counted towards activity inside the UK; staying in a hotel abroad should be counted towards activity outside the UK. Any travel/transport costs will be considered as expenditure carried out in the UK if the travel began in the UK.

The following are not relevant: whether service providers are paid in the UK, or paid in sterling; or whether they pay tax in the UK; or whether they are nationals or residents of the UK; or whether the payment for goods and services is paid to any UK account or through the UK; or who pays for them; or from which country any finance comes.

B1 Studio and/or location shooting 6 points

Up to 6 points will be awarded depending on the percentage of principal photography that is carried out in the UK. 6 points will be awarded for at least 75%, 5 points for at least 62.5%, 4 points for at least 50%, 3 points for at least 37.5% 2 points for at least 25% and 1 point for at least 10%.

Principal photography in the UK includes principal photography at any studio, location, warehouse or other place where filming takes place. It does not include any shooting done by second or other units. It will be measured by reference to the number of days spent of the work as set out in the shooting schedule.

---

**B2 Visual Effects** **4 points**

Up to 4 points depending on the percentage of the work on visual effects that is carried out in the UK. 4 points to be awarded for at least 75%, 3 points for at least 50%, 2 points for at least 25% and 1 for at least 10%. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

Visual Effects means digital alterations to a film's images. That is, where individual frames of the film are created, recorded or manipulated digitally in a digital environment.

Visual Effects activity includes, but is not limited to: pre-visualisation, concept design, data acquisition (motion capture, cyberscans, lidar scanning, set surveys, photogrammetry shoots), computer generated images (CGI), character / creature animation, colour correction, 2D compositing, 3D animation, 3D modelling, digital intermediate, virtual sets / studios, digital matte painting, lighting and rendering. However, it does not include the editing of a film.

---

**B3 Special Effects** **1 point**

1 point will be awarded if at least 75% of the work on special effects is carried out in the UK. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

Special effects means artificial techniques or processes, which are not visual effects, used to create an illusion in a film. Special Effects include, but are not limited to: Miniatures, Animatronics, Prosthetics, Atmospheric, Mechanical Effects, Flying Effects, Pyrotechnics, Animation and puppets, Special Costumes, Action Props.

---

**B4 Music Recording** **2 points**

Up to 2 points will be awarded depending on the percentage of the work on performing and recording the original music score created for the film that is carried out in the UK. 2 points to be awarded for at least 75% and 1 point for at least 50%. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

This will not include source music.

**B5 Audio Post Production**

**1 point**

1 point to be awarded if at least 75% of the work on audio post production is carried out in the UK. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

**B6 Laboratory Processing**

**1 point**

1 point will be awarded if at least 75% of the work on image processing is carried out in the UK. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

Image processing for the purposes of this test includes; negative processing, rushes prints, video rushes from the processed negative, copies of the HD camera original onto other video formats for editing, negative logging, negative cutting or scanning, shooting optical sounds negative, creation of a digital internegative, answer print from digital internegative or from the original negative, interpositive/internegative, check print, manufacture of the video deliverables (TV masters) from either the digital house or the telecine house.

This definition will be revisited as and when necessary to take account of the fast changing digital technology.

Total for Section B – 15 points

**Section C – Cultural Practitioners**

For the purposes of this test a qualifying person means a citizen or a person ordinarily resident in a member State, that is, a citizen or resident of:

- i) the UK (including citizens of the Isle of Man or Channel Islands),
- ii) any EEA state (Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain Sweden, Iceland, Norway and Liechtenstein); and
- iii) Bulgaria and Romania as countries that have relevant Association Agreements with the EU.

To qualify in relation to a point a person must be a national of one of these countries at the time the film was being made. If a person holds dual nationality he/she may choose either nationality for the purpose of the test.

Ordinary residence has the following characteristics: it is a regular habitual mode of life in a particular place; it must be lawful; it must have been adopted voluntarily; it must be for a settled purpose; its continuity has persisted despite temporary absences; and it may be of long or short duration. HMRC and the Home Office have published guidance on what ordinary residence means. See:

[http://www.hmrc.gov.uk/manuals/ntcmanual/eligibility\\_residency/ordinary\\_residence\\_uk\\_info.htm](http://www.hmrc.gov.uk/manuals/ntcmanual/eligibility_residency/ordinary_residence_uk_info.htm)

[http://www.ind.homeoffice.gov.uk/ind/en/home/laws\\_\\_\\_policy/policy\\_instructions/nis/l-p/ordinary\\_residence.html](http://www.ind.homeoffice.gov.uk/ind/en/home/laws___policy/policy_instructions/nis/l-p/ordinary_residence.html)

Possession of a contract does not in itself mean that someone is ordinarily resident in the UK. Nor does a contract's terms about length of employment in the UK. Nor does paying someone throughout their contract where the person has received a contract for work in the UK. Nor does possession of a right of abode where abode may or may not be taken up from time to time. Nor does ownership of a house in the UK. Nor does marriage to a British spouse.

C1 Director 2 points

2 points will be awarded if the director is a qualifying person or, if there is more than one director, the lead director is a qualifying person.

Where there is more than one director, applicants will be asked to make a case for who is the lead director, except where there are joint and equal directors in which case an applicant may choose either to be the lead.

The lead director will be determined by taking into account factors including; the person who takes the credit in the film, the creative input and time spent working on the film.

C2 Scriptwriter 2 points

Up to 2 points will be awarded depending on the number of scriptwriters who are qualifying persons.

If there is only one scriptwriter then 2 points will be awarded if he or she is a qualifying person.

If there are only two scriptwriters 2 points will be awarded if both are qualifying persons and 1 point will be awarded if one is a qualifying person.

If there are only three scriptwriters 2 points will be awarded if all three or any two are qualifying persons and 1 point will be awarded if one is a qualifying person.

If there are more than three scriptwriters, applicants will be asked to make a case for the three lead scriptwriters. 2 points will be awarded if two or more of the three are qualifying persons and 1 point if one is.

A scriptwriter will be determined by taking into account factors including; the person who takes the credit in the film, creative input on the script and time spent working on the script.

C3 Producer 1 point

1 point will be awarded if at least one of the producers (or, if there are more than three, of the three lead producers) is a qualifying person.

A lead producer will be determined as an individual with decision-making authority who plays an active role throughout the pre-production and production of a film and assumes responsibility for the physical process of production and carrying through practical and financial arrangements for the making of the film.

Applicants will be asked to make a case for who is the lead producer.

C4 Composer 1 point

1 point will be awarded if the composer is a qualifying person or, if there is more than one composer, the lead composer is a qualifying person.

Where there is more than one composer, applicants will be asked to make a case for who is the lead composer, except where there are joint and equal composers in which case an applicant may choose either to be the lead.

The lead composer will be determined by taking into account factors including; the person who takes the credit in the film, the creative input on the original music score (not including source music) and time spent working on the score.

C5 Principal Actors 2 points

Up to 2 points will be awarded depending on the number of actors who are qualifying persons. If there are more than three actors, 2 points will be awarded if two or three of the lead actors are qualifying persons and 1 point will be awarded if one.

If there are only three actors, 2 points if two or three of them are qualifying persons, 1 point if one of them is. If there are only two actors, 2 points if both of them are qualifying persons, 1 point if one of them is. If there is only one actor, 2 points if he or she is a qualifying person.

The lead actors will be determined by taking into account factors including; the number of days worked in front of the camera and the centrality of the actor's role in the film.

Applicants will be asked to make a case for who are the lead actors.

C6 Majority of cast 1 point

1 point will be awarded if at least 50% of the cast are qualifying persons. 'Cast' means all the actors and performers (including stunt men and women) but not extras who appear in the film.

For the purposes of this test 'extras' means: a person who appears in a film where a

non-specific, non-speaking character is required, usually as part of a crowd or in the background of a scene.

C7 Key Staff 3 point

Up to 3 points will be awarded depending on the number of heads of department who are qualifying persons. 3 points will be awarded for five or more, 2 points for three or four and 1 point for one or two.

The heads of department are the lead cinematographer, the lead production designer, the lead costume designer, the lead editor, the lead sound designer, the lead visual effects supervisor, the lead hair and makeup supervisor. The head of the department is the person with responsibility for that department.

C8 Majority of Crew 1 point

1 point will be awarded if at least 50% of the production crew are qualifying persons. Production crew means all the people directly involved in the production of a film who do not appear in the film. That is, people involved directly in the production and post-production of the film but not people involved in providing ancillary services e.g. caterers. Whether a person is in the production crew will be determined by taking into account factors including if he or she is contracted by the production company to perform services on the film; and if he or she have industry-standard on-screen credits and be recognised in the PACT/BECTU Freelance Rate Card.

Total for Section C- 13 points

Total for Sections A, B, C – 32 points.

**CULTURAL TEST FOR ANIMATION FILMS**

The cultural test for an animation is set out in paragraph 4C of Schedule 1. An animation is a film where images are manufactured by hand, computer or otherwise on a frame by frame basis and where any performers photographed in the course of production do not appear entirely in person or move in real time on the final print. For the purposes of certification, this would be taken on a case-by-case basis.

**Section A – Cultural Content****A1 Film set wholly/mainly in the UK 1 point**

1 point will be awarded if at least 50% of the film is set in the United Kingdom.

A film is set in the UK if the story takes place in the UK. It does not matter where the film is actually shot. For the purpose of the test a film is set in the UK if it is set in any country (England, Scotland, Wales or Northern Ireland) which is now part of the UK.

A film that is set in a fictionalised version of the UK will be considered to be set in the UK. However, a film set in a purely fictional setting will not be treated as set in the UK.

This will be measured by counting the number of pages in the script which are set in the UK.

**A2 Principal characters British citizens or residents 1 point**

1 point will be awarded if at least one of the three principal characters depicted in the film is a British character.

A character is a British character if he or she is a British citizen or a character resident in the UK. For the purposes of the test British includes any nationality of a country (English, Scottish, Welsh, Northern Irish) which is now part of the UK. British character also includes any character who, at the time the film was set, was a British subject in the UK's colonial territories.

Where it is not immediately apparent from the film, applicants will be asked to explain why the character should be regarded as a British character.

The three principal characters will be determined by taking account of centrality and prominence of the character in the story. Applicants will be asked to identify the three principal characters and make the case for a character's centrality and prominence in the story.

**A3 Film based on British subject matter or underlying material 1 point**

1 point will be awarded if the film depicts a British story. A film depicts a British story: (a) if the subject matter of the film is British; or (b) if the underlying material on which

the film is based is British.

In relation to (a) the subject matter is British, for example, if the film is about a British historical event even though it is not set in the UK; or the film is about a British historical or fictional character. Applicants will be asked to make a case for how their film depicts a British story.

In relation to (b) the underlying material e.g. book, short story, game, original screenplay, article is written by a British citizen or resident.

A4 Original dialogue recorded mainly in English language 1 point

1 point will be awarded if at least 50% of the original dialogue is recorded in the English language or in a recognised regional or minority language.

The UK has 6 indigenous minority languages under the Council of Europe's Charter for Minority or Regional Languages (Scottish-Gaelic, Welsh, Irish, Scots, Ulster Scots and Cornish). This list may be updated as further languages are added under the Charter.

Original dialogue will be measured by the number of words spoken against the total number of words of dialogue in the script. Dialogue can include narration but not stage directions.

Total for Section A - 4 points

### Section B - Cultural Hubs

The amount of work on a particular film-making activity in this section will be calculated by the amount of expenditure on that work. In order to calculate the proportion of the expenditure on a film-making activity that is carried out inside the UK it will be necessary to analyse production costs on the basis of where a person works on a film, where goods are supplied from and where the services are performed.

Where expenditure on a film-making activity is split between activity inside and outside the UK then the apportionment of expenditure must be made on a fair and reasonable basis. Normally we would expect this to be done on a time-basis calculated on calendar days. For example, a visual effects supervisor is hired (i.e. as part of expenditure on visual effects), and for a third of his time on the film **works** inside the UK, and two-thirds of his time outside the UK. One-third of his labour costs should be attributed to work inside the UK and two-thirds to work outside the UK.

Any living expenses of persons directly engaged in a cultural hub's work and incurred for the purposes of production (e.g. staying in a hotel in the UK) should be counted towards activity inside the UK; staying in a hotel abroad should be counted towards activity outside the UK. Any travel/transport costs will be considered as expenditure carried out in the UK if the travel began in the UK.

The following are not relevant: whether service providers are paid in the UK, or paid in

sterling; or whether they pay tax in the UK; or whether they are nationals or residents of the UK; or whether the payment for goods and services is paid to any UK account or through the UK; or who pays for them; or from which country any finance comes.

B1 Studio and/or location shooting 6 points

Up to 6 points will be awarded depending on the percentage of the work on shooting, visual design, layout and storyboarding that is carried out in the UK. 6 points will be awarded for at least 75%, 5 points for at least 62.5%, 4 points for at least 50%, 3 points for at least 37.5% 2 points for at least 25% and 1 point for at least 10%. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

B2 Visual Effects 4 points

Up to 4 points depending on the percentage of the work on visual effects that is carried out in the UK. 4 points to be awarded for at least 75%, 3 points for at least 50%, 2 points for at least 25% and 1 for at least 10%. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

Visual Effects means digital alterations to a film's images, where individual frames of the film are created, recorded or manipulated digitally in a digital environment.

Visual Effects activity includes, but is not limited to: pre-visualisation, concept design, data acquisition (motion capture, cyberscans, lidar scanning, set surveys, photogrammetry shoots), computer generated images (CGI), character / creature animation, colour correction, 2D compositing, 3D animation, 3D modelling, digital intermediate, virtual sets / studios, digital matte painting, lighting and rendering. However, it does not include the editing of a film.

For animations visual effects includes software development.

B3 Special Effects 1 point

1 point will be awarded if at least 75% of the work on special effects is carried out in the UK. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

Special effects means artificial techniques or processes, which are not visual effects, used to create an illusion in a film. Special Effects include, but are not limited to: Miniatures, Animatronics, Prosthetics, Atmospheric, Mechanical Effects, Flying Effects, Pyrotechnics, Animation and puppets, Special Costumes, Action Props.

B4 Music Recording 2 points

Up to 2 points will be awarded depending on the percentage of the work on performing and recording the original music score created for the film that is carried out in the UK. 2 points to be awarded for at least 75% and 1 point for at least 50%.

The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

This will not include source music.

**B5 Audio Post Production** **1 point**

---

1 point to be awarded if at least 75% of the work on voice recording and audio post production is carried out in the UK. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

**B6 Laboratory Processing** **1 point**

---

1 point will be awarded if at least 75% of the work on image processing is carried out in the UK. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

Image processing for the purposes of this test includes; negative processing, rushes prints, video rushes from the processed negative, copies of the HD camera original onto other video formats for editing, negative logging, negative cutting or scanning, shooting optical sounds negative, creation of a digital internegative, answer print from digital internegative or from the original negative, interpositive/internegative, check print, manufacture of the video deliverables (TV masters) from either the digital house or the telecine house.

Total for Section B – 15 points

**Section C – Cultural Practitioners**

For the purposes of this test a qualifying person means a citizen or a person ordinarily resident in a member State, that is, a citizen or resident of:

- i) the UK (including citizens of the Isle of Man or Channel Islands),
- ii) any EEA state (Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain Sweden, Iceland, Norway and Liechtenstein);  
and
- iii) Bulgaria and Romania as countries that have relevant Association Agreements with the EU.

To qualify in relation to a point a person must be a national of one of these countries at the time the film was being made. If a person holds dual nationality he/she may choose either nationality for the purpose of the test.

Ordinary residence has the following characteristics: it is a regular habitual mode of life in a particular place; it must be lawful; it must have been adopted voluntarily; it must be for a settled purpose; its continuity has persisted despite temporary absences; and it may be of long or short duration. HMRC and the Home Office have

published guidance on what ordinary residence means. See:

[http://www.hmrc.gov.uk/manuals/ntcmanual/eligibility\\_residency/ordinary\\_residence\\_uk\\_info.htm](http://www.hmrc.gov.uk/manuals/ntcmanual/eligibility_residency/ordinary_residence_uk_info.htm)

[http://www.ind.homeoffice.gov.uk/ind/en/home/laws\\_policy/policy\\_instruction/nis/l-p/ordinary\\_residence.html](http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instruction/nis/l-p/ordinary_residence.html)

Possession of a contract does not in itself mean that someone is ordinarily resident in the UK. Nor does a contract's terms about length of employment in the UK. Nor does paying someone throughout their contract where the person has received a contract for work in the UK. Nor does possession of a right of abode where abode may or may not be taken up from time to time. Nor does ownership of a house in the UK. Nor does marriage to a British spouse.

C1 Director 2 points

2 points will be awarded if the director is a qualifying person or, if there is more than one director, the lead director is a qualifying person.

Where there is more than one director, applicants will be asked to make a case for who is the lead director, except where there are joint and equal directors in which case an applicant may choose either to be the lead.

The lead director will be determined by taking into account factors including; the person who takes the credit in the film, the creative input and time spent working on the film.

C2 Scriptwriter 2 points

Up to 2 points will be awarded depending on the number of scriptwriters who are qualifying persons.

If there is only one scriptwriter then 2 points will be awarded if he or she is a qualifying person.

If there are only two scriptwriters 2 points will be awarded if both are qualifying persons and 1 point will be awarded if one is a qualifying person.

If there are only three scriptwriters 2 points will be awarded if all three or any two are qualifying persons and 1 point will be awarded if one is a qualifying person.

If there are more than three scriptwriters, applicants will be asked to make a case for the three lead scriptwriters. 2 points will be awarded if two or more of three are qualifying persons and 1 point if one is.

A scriptwriter will be determined by taking into account factors including; the person who takes the credit in the film, creative input on the script and time spent working on the script.

C3 Producer 1 point

1 point will be awarded if at least one of the producers (or, if there are more than three, of the three lead producers) is a qualifying person.

A lead producer will be determined as an individual with decision-making authority who plays an active role throughout the pre-production and production of a film and assumes responsibility for the physical process of production and carrying through practical and financial arrangements for the making of the film.

Applicants will be asked to make a case for who is the lead producer.

C4 Composer 1 point

1 point will be awarded if the composer is a qualifying person or, if there is more than one composer, the lead composer is a qualifying person.

Where there is more than one composer, applicants will be asked to make a case for who is the lead composer, except where there are joint and equal composers in which case an applicant may choose either to be the lead.

The lead composer will be determined by taking into account factors including; the person who takes the credit in the film, the creative input on the original music score (not including source music) and time spent working on the score.

C5 Principal Actors 2 points

Up to 2 points will be awarded depending on the number of actors who are qualifying persons. If there are more than three actors, 2 points will be awarded if two or three of the lead actors are qualifying persons and 1 point will be awarded if one.

If there are only three actors, 2 points if two or three of them are qualifying persons, 1 point if one of them is. If there are only two actors, 2 points if both of them are qualifying persons, 1 point if one of them is. If there is only one actor, 2 points if he or she is a qualifying person.

For animations this will include actors voicing characters.

The lead actors will be determined by taking into account factors including; the number of performance days worked and the centrality of the actor's role in the film. Applicants will be asked to make a case for who are the lead actors.

C6 Majority of cast 1 point

1 point will be awarded if at least 50% of the cast are qualifying persons. 'Cast' means all the actors and performers but not extras that appear in the film. For animations this will include actors voicing characters.

For the purposes of this test 'extras' means: a person who appears in a film where a non-specific, non-speaking character is required, usually as part of a crowd or in the background of a scene.

C7 Key Staff 3 point

Up to 3 points will be awarded depending on the number of heads of department who are qualifying persons. 3 points will be awarded for five or more, 2 points for three or four and 1 point for one or two.

For animations the heads of department are the lead layout supervisor, the lead production designer, the lead character designer, the lead editor, the lead sound designer, the lead visual effects supervisor and the lead modelling supervisor.

The head of the department is the person with responsibility for that department.

C8 Majority of Crew 1 point

1 point will be awarded if at least 50% of the production crew are qualifying persons. Production crew' means all the people directly involved in the production of a film who do not appear in the film. That is, people involved directly in the production and post-production of the film but not people involved providing ancillary service e.g. caterers. Whether a person is in the production crew will be determined by taking into account factors including if he or she is contracted by the production company to perform services on the film; and if he or she have industry-standard on-screen credits and be recognised in the PACT/BECTU Freelance Rate Card.

Total for Section C- 13 points

Total for Sections A, B, C – 32 points.

## **CULTURAL TEST FOR DOCUMENTARY FILMS**

The cultural test for a documentary is set out in paragraph 4B of Schedule 1. A documentary means a factual or realistic film based on real events, places or circumstances and intended primarily to record or inform.

### **Section A – Cultural Content**

**A1 Film set wholly/mainly in the UK 1 point**

1 point will be awarded if at least 50% of the film is set in the United Kingdom.

A film is set in the UK if the story takes place in the UK. It does not matter where the film is actually shot. For the purpose of the test a film is set in the UK if it is set in any country (England, Scotland, Wales or Northern Ireland) which is now part of the UK.

A film that is set in a fictionalised version of the UK will be considered to be set in the UK. However, a film set in a purely fictional setting will not be treated as set in the UK.

This will be measured by counting the number of pages in the script which are set in the UK.

**A2 Principal characters British citizens or residents 1 point**

1 point will be awarded if at least one of the three principal characters depicted in the film is a British character. For a documentary this may include the presenter, the subject or other contributors on screen.

A character is a British character if he or she is a British citizen or a person resident in the UK. For the purposes of the test British includes any nationality of a country (English, Scottish, Welsh, Northern Irish) which is now part of the UK. British character also includes any character who, at the time the film was set, was a British subject in the UK's colonial territories e.g. Mahatma Gandhi.

Where it is not immediately apparent from the film, applicants will be asked to explain why the character should be regarded as a British character.

The three principal characters will be determined by taking account of centrality and prominence of character in the documentary. Applicants will be asked to identify the three principal characters and make the case for a character's centrality and prominence in the documentary.

**A3 Film based on British subject matter or underlying material 1 point**

1 point will be awarded if the film depicts a British story. A film depicts a British story (a) if the subject matter of the film is British; or (b) if the underlying material on which the film is based is British.

In relation to (a) the subject matter is British, for example, if the film is about a British historical event even though it is not set in the UK; or the film is about a British historical or fictional character. Applicants will be asked to make a case for how their film depicts a British story.

In relation to (b) the underlying material e.g. book, short story, game, original screenplay, article is written by a British citizen or resident.

A4 Original dialogue recorded mainly in English language 1 point

1 point will be awarded if at least 50% of the original dialogue is recorded in the English language or in a recognised regional or minority language. The UK has 6 indigenous minority languages under the Council of Europe's Charter for Minority or Regional Languages (Scottish-Gaelic, Welsh, Irish, Scots, Ulster Scots and Cornish). This list may be updated as further languages are added under the Charter.

Original dialogue will be measured by the number of words spoken against the total number of words of dialogue in the script. Dialogue can include narration but not stage directions.

Total for Section A - 4 points

**Section B - Cultural Hubs**

The amount of work on a particular film-making activity in this section will be calculated by the amount of expenditure on that work. In order to calculate the proportion of the expenditure on a film-making activity that is carried out inside the UK it will be necessary to analyse production costs on the basis of where a person works on a film, where goods are supplied from and where the services are performed.

Where expenditure on a film-making activity is split between activity inside and outside the UK then the apportionment of expenditure must be made on a fair and reasonable basis. Normally we would expect this to be done on a time-basis calculated on calendar days. For example, a visual effects supervisor is hired (i.e. as part of expenditure on visual effects), and for a third of his time on the film **works** inside the UK, and two-thirds of his time outside the UK. One-third of his labour costs should be attributed to work inside the UK and two-thirds to work outside the UK.

Any living expenses of persons directly engaged in a cultural hub's work and incurred for the purposes of production (e.g. staying in a hotel in the UK) should be counted towards activity inside the UK; staying in a hotel abroad should be counted towards activity outside the UK. Any travel/transport costs will be considered as expenditure carried out in the UK if the travel began in the UK.

The following are not relevant: whether service providers are paid in the UK, or paid in sterling; or whether they pay tax in the UK; or whether they are nationals or residents of the UK; or whether the payment for goods and services is paid to any UK account or through the UK; or who pays for them; or from which country any finance comes.

**B1 Studio and/or location shooting and visual effects 6 points**

Up to 6 points will be awarded depending on the percentage of the work on shooting and visual effects that is carried out in the UK. 6 points will be awarded for at least 75%, 5 points for at least 62.5%, 4 points for at least 50%, 3 points for at least 37.5% 2 points for at least 25% and 1 point for at least 10%. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

Shooting in the UK includes shooting at any studio, location, warehouse or other place where filming takes place.

Visual Effects means digital alterations to a film's images, where individual frames of the film are created, recorded or manipulated digitally in a digital environment.

Visual Effects activity includes, but is not limited to: pre-visualisation, concept design, data acquisition (motion capture, cyberscans, lidar scanning, set surveys, photogrammetry shoots), computer generated images (CGI), character / creature animation, colour correction, 2D compositing, 3D animation, 3D modelling, digital intermediate, virtual sets / studios, digital matte painting, lighting and rendering. However, it does not include the editing of a film.

The percentage of work carried out on shooting and visual effects will be measured by the percentage of the total of these budgets that is for work carried out in the UK.

**B2 Research and Development 4 points**

Up to 4 points will be awarded depending on the percentage of the work on research and development that is carried out in the UK. 4 points to be awarded for at least 75%, 3 points for at least 50%, 2 points for at least 25% and 1 for at least 10%. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

**B3 Special Effects 1 point**

1 point will be awarded if at least 75% of the work on special effects is carried out in the UK. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

Special effects means artificial techniques or processes, which are not visual effects, used to create an illusion in a film. Special Effects include, but are not limited to: Miniatures, Animatronics, Prosthetics, Atmospheric, Mechanical Effects, Flying Effects, Pyrotechnics, Animation and puppets, Special Costumes, Action Props.

**B4 Music Recording 2 points**

Up to 2 points will be awarded depending on the percentage of the work on performing and recording the original music score created for the film that is carried

out in the UK. 2 points to be awarded for at least 75% and 1 point for at least 50%. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

This will not include source music.

**B5 Audio Post Production** 1 point

1 point to be awarded if at least 75% of the work on audio post production is carried out in the UK. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

**B6 Laboratory Processing** 1 point

1 point will be awarded if at least 75% of the work on image processing is carried out in the UK. The amount of work carried out in the UK and elsewhere shall be measured by reference to the amount of expenditure on the work.

Image processing for the purposes of this test includes; negative processing, rushes prints, video rushes from the processed negative, copies of the HD camera original onto other video formats for editing, negative logging, negative cutting or scanning, shooting optical sounds negative, creation of a digital internegative, answer print from digital internegative or from the original negative, interpositive/internegative, check print, manufacture of the video deliverables (TV masters) from either the digital house or the telecine house.

Total for Section B – 15 points

**Section C – Cultural Practitioners**

For the purposes of this test a qualifying person means a citizen or a person ordinarily resident in a member State, that is, a citizen or resident of:

- i) the UK (including citizens of the Isle of Man or Channel Islands),
- ii) any EEA state (Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain Sweden, Iceland, Norway and Liechtenstein); and
- iii) Bulgaria and Romania as countries that have relevant Association Agreements with the EU.

To qualify in relation to a point a person must be a national of one of these countries at the time the film was being made. If a person holds dual nationality he/she may choose either nationality for the purpose of the test.

Ordinary residence has the following characteristics: it is a regular habitual mode of life in a particular place; it must be lawful; it must have been adopted voluntarily; it must be for a settled purpose; its continuity has persisted despite temporary

absences; and it may be of long or short duration. HMRC and the Home Office have published guidance on what ordinary residence means. See:

[http://www.hmrc.gov.uk/manuals/ntcmanual/eligibility\\_residency/ordinary\\_residence\\_uk\\_info.htm](http://www.hmrc.gov.uk/manuals/ntcmanual/eligibility_residency/ordinary_residence_uk_info.htm)

[http://www.ind.homeoffice.gov.uk/ind/en/home/laws\\_policy/policy\\_instruction/nis/l-p/ordinary\\_residence.html](http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instruction/nis/l-p/ordinary_residence.html)

Possession of a contract does not in itself mean that someone is ordinarily resident in the UK. Nor does a contract's terms about length of employment in the UK. Nor does paying someone throughout their contract where the person has received a contract for work in the UK. Nor does possession of a right of abode where abode may or may not be taken up from time to time. Nor does ownership of a house in the UK. Nor does marriage to a British spouse.

C1 Director 2 points

2 points will be awarded if the director is a qualifying person or, if there is more than one director, the lead director is a qualifying person.

Where there is more than one director, applicants will be asked to make a case for who is the lead director, except where there are joint and equal directors in which case an applicant may choose either to be the lead.

The lead director will be determined by taking into account factors including; the person who takes the credit in the film, the creative input and time spent working on the film.

C2 Scriptwriter 2 points

Up to 2 points will be awarded depending on the number of scriptwriters who are qualifying persons.

If there is only one scriptwriter then 2 points will be awarded if he or she is a qualifying person.

If there are only two scriptwriters 2 points will be awarded if both are qualifying persons and 1 point will be awarded if one is a qualifying person.

If there are only three scriptwriters 2 points will be awarded if all three or any two are qualifying persons and 1 point will be awarded if one is a qualifying person.

If there are more than three scriptwriters, applicants will be asked to make a case for the three lead scriptwriters. 2 points will be awarded if two or more of the three are qualifying persons and 1 point if one is.

A scriptwriter will be determined by taking into account factors including; the person who takes the credit in the film, creative input on the script and time spent working on

the script.

C3    Producer 1 point

1 point will be awarded if at least one of the producers (or, if there are more than three, of the three lead producers) is a qualifying person.

A lead producer will be determined as an individual with decision making authority who plays an active role throughout the pre-production and production of a film and assumes responsibility for the physical process of production and carrying through practical and financial arrangements for the making of the film.

Applicants will be asked to make a case for who is the lead producer.

C4    Composer 1 point

1 point will be awarded if the composer is a qualifying person or, if there is more than one composer, the lead composer is a qualifying person.

Where there is more than one composer, applicants will be asked to make a case for who is the lead composer, except where there are joint and equal composers in which case an applicant may choose either to be the lead.

The lead composer will be determined by taking into account factors including; the person who takes the credit in the film, the creative input on the original music score (not including source music) and time spent working on the score.

C5    Participants 2 points

Up to 2 points will be awarded depending on the number of participants who are qualifying persons. If there are more than three participants, 2 points will be awarded if two or three of the lead participants are qualifying persons and 1 point will be awarded if one.

If there are only three participants, 2 points if two or three of them are qualifying persons, 1 point if one of them is. If there are only two participants, 2 points if both of them are qualifying persons, 1 point if one of them is. If there is only one participant, 2 points if he or she is a qualifying person.

A 'participant' means a presenter, narrator, subject or other person who participates and appears in a documentary.

The lead participants will be determined by taking into account factors including; the number of days worked in front of the camera and the centrality of the participants' role in the film.

Applicants will be asked to make a case for who are the lead participants.

C6    Majority of participants 1 point

1 point will be awarded if at least 50% of all the participants are qualifying persons. A 'participant' means a presenter, narrator, subject or other person who participates and appears in a documentary.

C7 Key Staff 3 point

Up to 3 points will be awarded depending on the number of heads of department who are qualifying persons. 3 points will be awarded for four, 2 points for three and 1 point for one or two.

For a documentary the heads of department are the lead cameraman, the lead sound recordist, the lead editor and the lead researcher.

The head of the department is the person with responsibility for that department.

C8 Majority of Crew 1 point

1 point will be awarded if at least 50% of the production crew are qualifying persons. Production crew' means all the people directly involved in the production of a film who do not appear in the film. That is, people involved directly in the production and post-production of the film but not people involved in providing ancillary services e.g. caterers. Whether a person is in the production crew will be determined by taking into account factors including if he or she is contracted by the production company to perform services on the film; and if he or she have industry-standard on-screen credits and be recognised in the PACT/BECTU Freelance Rate Card.

Total for Section C- 13 points

Total for Sections A, B, C – 32 points.

## SCHEDULE 1 TO THE FILMS ACT 1985

### **Preliminary**

1.—(1) In this Schedule—

“film” includes any record, however made, of a sequence of visual images that is capable of being used as a means of showing that sequence as a moving picture;

“film production company” has the same meaning as in Chapter 3 of Part 3 of the Finance Act 2006 (see section 32 of that Act).

(2) For the purposes of this Schedule each part of a series of films is treated as a separate film, unless—

- (a) the films form a series with not more than 26 parts,
- (b) the combined playing time is not more than 26 hours, and
- (c) the series constitutes a self-contained work or is a series of documentaries with a common theme, in which case the films are treated as a single film.

(3) References in this Schedule to a film include the film soundtrack.

(4) For the purposes of this Schedule a film is completed when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public.

### **Applications for certification**

2.—(1) The film production company may apply to the Secretary of State for the certification of a film as a British film.

(2) The application may be for an interim or final certificate.

(3) An interim certificate is a certificate granted before the film is completed that the film, if completed in accordance with the proposals set out in the application, will be a British film.

(4) A final certificate is a certificate granted after the film is completed that the film is a British film.

(5) The applicant must—

- (a) produce to the Secretary of State such books or other documents relating to the application; and
- (b) provide the Secretary of State with such other information with respect to it, as the Secretary of State may require for the purposes of determining the application.

(6) The Secretary of State may require information provided for the purposes of the application to be accompanied by a statutory declaration, by the person providing it, as to the truth of the information.

### **Certification and withdrawal of certification**

3.—(1) If the Secretary of State is satisfied that the requirements are met for interim or final certification of a film as a British film, he shall certify the film accordingly.

(2) If the Secretary of State is not satisfied that those requirements are met, he shall refuse the application.

(3) An interim certificate—

- (a) may be given subject to conditions, and (unless the Secretary of State directs otherwise) is of no effect if the conditions are not met;
- (b) may be expressed to expire after a specified period, and (unless the Secretary of State directs otherwise) ceases to have effect at the end of that period; and

(c) ceases to have effect when a final certificate is issued.

(4) If it appears to the Secretary of State that a film certified by him under this Schedule ought not to have been certified, he shall revoke its certification.

Unless the Secretary of State directs otherwise, a certificate that is revoked is treated as never having had effect.

**4.**—(1) A film is a British film for the purposes of this Schedule if it passes the relevant cultural test (see paragraphs 4A, 4B or 4C).

(2) to (3) .... [Repealed]

(4) For the purposes of this paragraph and paragraphs 4A to 4D a state shall be treated as if it were a member State if—

(a) it is a party to an agreement under Article 310 of the Treaty establishing the European Community, and

(b) the agreement requires a maker of a film who is ordinarily resident or registered in that state to be treated for the purposes of this Schedule in the same way as a maker of a film who is ordinarily resident or registered in a member State.

(5) Her Majesty may by Order in Council provide for films to be treated as British films for the purposes of this Schedule if they are made in accordance with the terms of any agreement between Her Majesty's Government in the United Kingdom and any other government, international organisation or authority.

(6) This paragraph has effect subject to paragraph 5 (excluded films).

**4A.**—(1) The cultural test for a film other than a documentary (see paragraph 4B) or an animation (see paragraph 4C) is as follows.

(2) A film passes the cultural test if it is awarded at least 16 points in total.

(3) Up to 4 points shall be awarded in respect of the content of the film as follows—

(c) 1 point if at least 50% of the film is set in the United Kingdom;

(d) 1 point if at least one of the three principal characters depicted in the film (or, if there are three or fewer characters depicted in the film, any of them) is a British character;

(e) 1 point if the film depicts a British story;

(f) 1 point if at least 50% of the original dialogue is recorded in the English language or in a recognised regional or minority language.

(4) Up to 15 points shall be awarded in respect of work carried out in the making of the film as follows—

(a) up to 6 points depending on the percentage of principal photography that is carried out in the United Kingdom as follows—

(i) 6 points for 75%,

(ii) 5 points for 62.5%,

(iii) 4 points for 50%,

(iv) 3 points for 37.5%,

(v) 2 points for 25%,

(vi) 1 point for 10%;

(b) up to 4 points depending on the percentage of the work on visual effects that is carried out in the United Kingdom as follows—

(i) 4 points for 75%,

(ii) 3 points for 50%,

(iii) 2 points for 25%,

(iv) 1 point for 10%;

(c) 1 point if at least 75% of the work on special effects is carried out in the United Kingdom;

- (d) up to 2 points depending on the percentage of the work on performing and recording the original music score created for the film that is carried out in the United Kingdom as follows—
    - (i) 2 points for 75%,
    - (ii) 1 point for 50%;
  - (e) 1 point if at least 75% of the work on audio post production is carried out in the United Kingdom;
  - (f) 1 point if at least 75% of the work on image processing is carried out in the United Kingdom.
- (5) Up to 13 points shall be awarded in respect of the personnel involved in the making of the film as follows—
- (a) 2 points if the director (or, if there is more than one, the lead director) is a qualifying person;
  - (b) up to 2 points depending on the number of the scriptwriters who are qualifying persons as follows—
    - (i) if there is only one scriptwriter, 2 points if he is a qualifying person,
    - (ii) if there are only two scriptwriters, 2 points if both of them are qualifying persons, 1 point if one of them is,
    - (iii) if there are only three scriptwriters, 2 points if two or more of them are qualifying persons, 1 point if one of them is,
    - (iv) if there are more than three scriptwriters, 2 points if two or more of the three lead scriptwriters are qualifying persons, 1 point if one of the three lead scriptwriters is a qualifying person;
  - (c) 1 point if at least one of the producers (or, if there are more than three, of the three lead producers) is a qualifying person;
  - (d) 1 point if the composer (or, if there is more than one, the lead composer) is a qualifying person;
  - (e) up to 2 points depending on the number of the actors who are qualifying persons as follows—
    - (i) if there are more than three actors, 2 points if two or more of the three lead actors are qualifying persons, 1 point if one of the three lead actors is a qualifying person,
    - (ii) if there are only three actors, 2 points if two or more of them are qualifying persons, 1 point if one of them is,
    - (iii) if there are only two actors, 2 points if both of them are qualifying persons, 1 point if one of them is,
    - (iv) if there is only one actor, 2 points if he is a qualifying person;
  - (f) 1 point if at least 50% of the cast are qualifying persons;
  - (g) up to 3 points depending on the number of the heads of department who are qualifying persons as follows—
    - (i) 3 points for five or more,
    - (ii) 2 points for three or four,
    - (iii) 1 point for one or two;
  - (h) 1 point if at least 50% of the production crew are qualifying persons.

**4B.**—(1) The cultural test for a documentary is as follows.

(2) A film passes the cultural test if it is awarded at least 16 points in total.

(3) Up to 4 points shall be awarded in respect of the content of the film as follows—

- (a) 1 point if at least 50% of the film is set in the United Kingdom;
- (b) 1 point if at least one of the three principal characters depicted in the film (or, if there are three or fewer characters depicted in the film, any of them) is a British character;
- (c) 1 point if the film depicts a British story;
- (d) 1 point if at least 50% of the original dialogue is recorded in the English language or in a recognised regional or minority language.

- (4) Up to 15 points shall be awarded in respect of work carried out in the making of the film as follows—
- (a) up to 6 points depending on the percentage of the work on shooting and visual effects that is carried out in the United Kingdom as follows—
    - (i) 6 points for 75%,
    - (ii) 5 points for 62.5%,
    - (iii) 4 points for 50%,
    - (iv) 3 points for 37.5%,
    - (v) 2 points for 25%,
    - (vi) 1 point for 10%;
  - (b) up to 4 points depending on the percentage of the work on research and development that is carried out in the United Kingdom as follows—
    - (i) 4 points for 75%,
    - (ii) 3 points for 50%,
    - (iii) 2 points for 25%,
    - (iv) 1 point for 10%;
  - (c) 1 point if at least 75% of the work on special effects is carried out in the United Kingdom;
  - (d) up to 2 points depending on the percentage of the work on performing and recording the original music score created for the film that is carried out in the United Kingdom as follows—
    - (i) 2 points for 75%,
    - (ii) 1 point for 50%;
  - (e) 1 point if at least 75% of the work on audio post production is carried out in the United Kingdom;
  - (f) 1 point if at least 75% of the work on image processing is carried out in the United Kingdom.
- (5) Up to 13 points shall be awarded in respect of the personnel involved in the making of the film as follows—
- (a) 2 points if the director (or, if there is more than one, the lead director) is a qualifying person;
  - (b) up to 2 points depending on the number of the scriptwriters who are qualifying persons as follows—
    - (i) if there is only one scriptwriter, 2 points if he is a qualifying person,
    - (ii) if there are only two scriptwriters, 2 points if both of them are qualifying persons, 1 point if one of them is,
    - (iii) if there are only three scriptwriters, 2 points if two or more of them are qualifying persons, 1 point if one of them is,
    - (iv) if there are more than three scriptwriters, 2 points if two or more of the three lead scriptwriters are qualifying persons, 1 point if one of the three lead scriptwriters is a qualifying person;
  - (c) 1 point if at least one of the producers (or, if there are more than three, of the three lead producers) is a qualifying person;
  - (d) 1 point if the composer (or, if there is more than one, the lead composer) is a qualifying person;
  - (e) up to 2 points depending on the number of the participants who are qualifying persons as follows—
    - (i) if there are more than three participants, 2 points if two or more of the three lead participants are qualifying persons, 1 point if one of the three lead participants is a qualifying person,
    - (ii) if there are only three participants, 2 points if two or more of them are qualifying persons, 1 point if one of them is,
    - (iii) if there are only two participants, 2 points if both of them are qualifying persons, 1 point if one of them is,
    - (iv) if there is only one participant, 2 points if he is a qualifying person;

- (f) 1 point if at least 50% of all of the participants are qualifying persons;
- (g) up to 3 points depending on the number of the heads of department who are qualifying persons as follows—
  - (i) 3 points for four,
  - (ii) 2 points for three,
  - (iii) 1 point for one or two;
- (h) 1 point if at least 50% of the production crew are qualifying persons.

**4C.—**(1) The cultural test for an animation is as follows.

- (2) A film passes the cultural test if it is awarded at least 16 points in total.
- (3) Up to 4 points shall be awarded in respect of the content of the film as follows—
  - (a) 1 point if at least 50% of the film is set in the United Kingdom;
  - (b) 1 point if at least one of the three principal characters depicted in the film (or, if there are three or fewer characters depicted in the film, any of them) is a British character;
  - (c) 1 point if the film depicts a British story;
  - (d) 1 point if at least 50% of the original dialogue is recorded in the English language or in a recognised regional or minority language.
- (4) Up to 15 points shall be awarded in respect of work carried out in the making of the film as follows—
  - (a) up to 6 points depending on the percentage of the work on shooting, visual design, layout and storyboarding that is carried out in the United Kingdom as follows—
    - (i) 6 points for 75%,
    - (ii) 5 points for 62.5%,
    - (iii) 4 points for 50%,
    - (iv) 3 points for 37.5%,
    - (v) 2 points for 25%,
    - (vi) 1 point for 10%;
  - (b) up to 4 points depending on the percentage of the work on visual effects that is carried out in the United Kingdom as follows—
    - (i) 4 points for 75%,
    - (ii) 3 points for 50%,
    - (iii) 2 points for 25%,
    - (iv) 1 point for 10%;
  - (c) 1 point if at least 75% of the work on special effects is carried out in the United Kingdom;
  - (d) up to 2 points depending on the percentage of the work on performing and recording the original music score created for the film that is carried out in the United Kingdom as follows—
    - (i) 2 points for 75%,
    - (ii) 1 point for 50%;
  - (e) 1 point if at least 75% of the work on voice recording and audio post production is carried out in the United Kingdom;
  - (f) 1 point if at least 75% of the work on image processing is carried out in the United Kingdom.
- (5) Up to 13 points shall be awarded in respect of the personnel involved in the making of the film as follows—
  - (a) 2 points if the director (or, if there is more than one, the lead director) is a qualifying person;
  - (b) up to 2 points depending on the number of the scriptwriters who are qualifying persons as follows—

- (i) if there is only one scriptwriter, 2 points if he is a qualifying person,
- (ii) if there are only two scriptwriters, 2 points if both of them are qualifying persons, 1 point if one of them is,
- (iii) if there are only three scriptwriters, 2 points if two or more of them are qualifying persons, 1 point if one of them is,
- (iv) if there are more than three scriptwriters, 2 points if two or more of the three lead scriptwriters are qualifying persons, 1 point if one of the three lead scriptwriters is a qualifying person;
- (c) 1 point if at least one of the producers (or, if there are more than three, of the three lead producers) is a qualifying person;
- (d) 1 point if the composer (or, if there is more than one, the lead composer) is a qualifying person;
- (e) up to 2 points depending on the number of the actors who are qualifying persons as follows—
  - (i) if there are more than three actors, 2 points if two or more of the three lead actors are qualifying persons, 1 point if one of the three lead actors is a qualifying person,
  - (ii) if there are only three actors, 2 points if two or more of them are qualifying persons, 1 point if one of them is,
  - (iii) if there are only two actors, 2 points if both of them are qualifying persons, 1 point if one of them is,
  - (iv) if there is only one actor, 2 points if he is a qualifying person;
- (f) 1 point if at least 50% of the cast are qualifying persons;
- (g) up to 3 points depending on the number of the heads of department who are qualifying persons as follows—
  - (i) 3 points for five or more,
  - (ii) 2 points for three or four,
  - (iii) 1 point for one or two;
- (h) 1 point if at least 50% of the production crew are qualifying persons.

**4D.—(1)** In paragraphs 4A to 4C—

“cast” means all the actors and performers but not the extras who appear in a film;

“heads of department” has the meaning given by sub-paragraph (2);

“participant” means a presenter, narrator, subject or other person who participates and appears in a documentary;

“production crew” means all the persons directly involved in the production of a film who do not appear in the film;

“qualifying person” means a citizen of, or a person ordinarily resident in, a member State;

“recognised regional or minority language” means Welsh, Scottish-Gaelic, Irish, Scots, Ulster Scots or Cornish;

“special effects” means artificial techniques or processes, which are not visual effects, used to create an illusion in a film;

“visual effects” means digital alterations to a film’s images.

**(2)** “Heads of department” means—

- (a) in paragraph 4A, the lead cinematographer, the lead production designer, the lead costume designer, the lead editor, the lead sound designer, the lead visual effects supervisor and the lead hair and makeup supervisor;
- (b) in paragraph 4B, the lead cameraman, the lead sound recordist, the lead editor and the lead researcher;

- (c) in paragraph 4C, the lead layout supervisor, the lead production designer, the lead character designer, the lead editor, the lead sound designer, the lead visual effects supervisor and the lead modelling supervisor.
- (3) For the purposes of paragraphs 4A to 4C—
  - (a) a film is set in the United Kingdom if it is set in a country which is now part of the United Kingdom; and
  - (b) a film depicts a British story if the subject matter of the film or the underlying material on which the film is based is British.
- (4) The amount of work that is carried out in the United Kingdom or elsewhere shall be determined—
  - (a) for the purposes of paragraph 4A(4)(a) (principal photography), by reference to the number of days spent on the work;
  - (b) for the purposes of paragraphs 4A(4)(b) to (f), 4B(4)(a) to (f) and 4C(4)(a) to (f) (other matters), by reference to the amount of expenditure on the work.
- (5) No points shall be awarded under any provision of paragraph 4A(4), 4B(4) or 4C(4) (points awarded in respect of the making of the film) in respect of work the expenditure on which is, in the opinion of the Secretary of State, insignificant in relation to the expenditure on all the work carried out in the making of the film.

**Excluded films**

5.—(1) A film must not be certified as a British film for the purposes of this Schedule if parts of the film whose playing time exceeds 10% of the total playing time of the film are derived from a previous film, unless—

- (a) the two films have the same film production company or producer, and
- (b) the previous film has not been certified under this Schedule.

(2) The Secretary of State may direct that sub-paragraph (1) shall not apply in relation to a film if in his opinion—

- (a) it is a documentary; and
- (b) its subject matter makes it appropriate for sub-paragraph (1) not to be applied.

(3) For the purposes of this paragraph—

- (a) the film soundtrack shall be left out of account;
- (b) “producer” means the person by whom the arrangements necessary for the making of the film are undertaken;
- (c) in relation to certification before the commencement of that Chapter, references to certification of a film shall be read as references to certification of the master negative, tape or disc of the film.

6. to 8. .... [Repealed]

### **Determination of disputes**

9.—(1) Any person who is aggrieved by any decision of the Secretary of State under paragraph 3 may, subject to rules of court, apply to the High Court, and the decision of that Court shall be final.

(2) In relation to any person whose principal place of business is in Scotland, sub-paragraph (1) shall have effect as if for any reference to the High Court there were substituted a reference to the Court of Sessions.

### **Regulations and orders**

10.—(1) The Secretary of State may make regulations—

- (a) prescribing the form of applications under paragraph 2;
- (b) prescribing the particulars and evidence necessary for satisfying the Secretary of State that the film is a British film for the purposes of this Schedule;
- (c) providing that any statutory declaration which is required by paragraph 2(6) to be made by any person shall be deemed to be properly made if it is made on his behalf by any such person as may be specified in the regulations.

(2) The Secretary of State with the approval of the Treasury may by order make such modifications to any of the provisions of paragraphs 1 and 4 to 5 as he considers appropriate; and any such order may contain such incidental, supplemental and transitional provisions as he considers appropriate in connection with the order.

(2) In sub-paragraph (2) “modifications” includes additions, omissions and alterations.

(3) Any regulations or order under this paragraph shall be made by statutory instrument.

(4) Any regulations under this paragraph shall be laid before Parliament after being made; but no order shall be made under this paragraph unless it has been laid before Parliament and approved by a resolution of each House.