Draft Order laid before Parliament under paragraph 10(5) of Schedule 1 to the Films Act 1985, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No.

CINEMAS AND FILM

The Films (Definition of "British Film") (No. 2) Order 2006

Made - - - -	*[ ]*
Coming into force - -	*[ ]*

The Secretary of State makes this Order, with the approval of the Treasury, in exercise of the powers conferred on her by paragraph 10(2) of Schedule 1 to the Films Act 1985(**1**).

A draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament in accordance with paragraph 10(5) of Schedule 1 to that Act.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Films (Definition of "British Film") (No. 2) Order 2006 and shall come into force on 1st January 2007 or, if later, the day after the day on which it is made.

(2) "The Schedule" means Schedule 1 to the Films Act 1985, and a reference to a numbered paragraph is a reference to the paragraph bearing that number in the Schedule.

Transitional provision

2. An application for certification under paragraph 2(**2**) which is made in relation to a film for which the first day of principal photography is on or after the day this Order comes into force shall be determined by the Secretary of State in accordance with the Schedule as modified by this Order.

Modification of the Schedule

3. For paragraphs 4A to 4C(**3**) (British films for purposes of the Schedule) substitute—

"**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) Subject to sub-paragraph (7), a film passes the cultural test if it is awarded at least 16 points in total.

(**1**) 1985 c.21.
(**2**) As substituted by section 42 of, and Schedule 5 to, the Finance Act 2006 (c. 25).
(**3**) Paragraphs 4A to 4C were inserted by S.I. 2006/643.

(3) Up to 16 points shall be awarded in respect of the content of the film as follows—

(a) up to 4 points depending on the percentage of the film that is set in the United Kingdom as follows—

(i) 4 points for at least 75%;

(ii) 3 points for at least 66%;

(iii) 2 points for at least 50%;

(iv) 1 point for at least 25%;

(b) up to 4 points depending on the number of the characters depicted in the film that are British as follows—

(i) if there are more than three characters depicted in the film, 4 points if two or three of the three lead characters are British or, if only one of the three lead characters is British, 2 points if he is the first or second lead, 1 point if he is the third lead;

(ii) if there are only three characters depicted in the film, 4 points if two or three of them are British or, if only one of them is British, 2 points if he is the first or second lead, 1 point if he is the third lead;

(iii) if there are only two characters depicted in the film, 4 points if both of them are British, 2 points if one of them is;

(iv) if there is only one character depicted in the film, 4 points if he is British;

(c) 4 points if the film depicts a British story;

(d) up to 4 points depending on the percentage of the original dialogue that is recorded in the English language or in a recognised regional or minority language as follows—

(i) 4 points for at least 75%;

(ii) 3 points for at least 66%;

(iii) 2 points for at least 50%;

(iv) 1 point for at least 25%.

(4) Up to 4 points may be awarded in respect of the contribution of the film to the promotion, development and enhancement of British culture.

(5) Up to 3 points shall be awarded in respect of work carried out in the making of the film as follows—

(a) 2 points if at least 50% of the work carried out on any of the following is carried out in the United Kingdom—

(i) principal photography;

(ii) visual effects;

(iii) special effects;

(b) 1 point if at least 50% of the work carried out on any of the following is carried out in the United Kingdom—

(i) performing and recording the music score created for the film;

(ii) audio post production;

(iii) picture post production.

(6) Up to 8 points shall be awarded in respect of the personnel involved in the making of the film as follows—

(a) 1 point if the director (or, if there is more than one, the lead director) is a qualifying person;

(b) 1 point if at least one of the scriptwriters (or, if there are more than three, of the three lead scriptwriters) is a qualifying persons;

(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) 1 point if at least one of the actors (or, if there are more than three, of the three lead actors) is a qualifying person;

(f) 1 point if at least 50% of the cast are qualifying persons;

(g) 1 point if at least one of the heads of department is a qualifying person;

(h) 1 point if at least 50% of the production crew are qualifying persons.

(7) A film that is awarded all the points available under sub-paragraphs (3)(d) (language), (5) (where work carried out) and (6) (personnel) does not pass the cultural test unless—

(a) it is awarded at least 2 points under sub-paragraph (3)(a) (setting),

(b) it is awarded at least 2 points under sub-paragraph (3)(b) (characters), or

(c) it is awarded 4 points under sub-paragraph (3)(c) (story).

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

(2) Subject to sub-paragraph (7), a film passes the cultural test if it is awarded at least 16 points in total.

(3) Up to 16 points shall be awarded in respect of the content of the film as follows—

(a) up to 4 points depending on the percentage of the film that is set in the United Kingdom as follows—

(i) 4 points for at least 75%;

(ii) 3 points for at least 66%;

(iii) 2 points for at least 50%;

(iv) 1 point for at least 25%;

(b) up to 4 points depending on the number of the characters depicted in the film that are British as follows—

(i) if there are more than three characters depicted in the film, 4 points if two or three of the three lead characters are British or, if only one of the three lead characters is British, 2 points if he is the first or second lead, 1 point if he is the third lead;

(ii) if there are only three characters depicted in the film, 4 points of two or three of them are British or, if only one of them is British, 2 points if he is the first or second lead, 1 point if he is the third lead;

(iii) if there are only two characters depicted in the film, 4 points if both of them are British, 2 points if one of them is;

(iv) if there is only one character depicted in the film, 4 points if he is British;

(c) 4 points if the film depicts a British story;

(d) up to 4 points depending on the percentage of the original dialogue that is recorded in the English language or in a recognised regional or minority language as follows—

(i) 4 points for at least 75%;

(ii) 3 points for at least 66%;

(iii) 2 points for at least 50%;

(iv) 1 point for at least 25%.

(4) Up to 4 points may be awarded in respect of the contribution of the film to the promotion, development and enhancement of British culture.

(5) Up to 3 points shall be awarded in respect of work carried out in the making of the film as follows—

(a) 2 points if at least 50% of the work carried out on any of the following is carried out in the United Kingdom—

(i) shooting;

(ii) visual effects;

(iii) research and development;

(iii) special effects;

(b) 1 point if at least 50% of the work carried out on any of the following is carried out in the United Kingdom—

(i) performing and recording the music score created for the film;

(ii) audio post production;

(iii) picture post production.

(6) Up to 8 points shall be awarded in respect of the personnel involved in the making of the film as follows—

(a) 1 point if the director (or, if there is more than one, the lead director) is a qualifying person;

(b) 1 point if at least one of the scriptwriters (or, if there are more than three, 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) 1 point if at least one of the participants (or, if there are more than three, of the three lead participants) is a qualifying person;

(f) 1 point if at least 50% of the participants are qualifying persons;

(g) 1 point if at least one of the heads of department is a qualifying person;

(h) 1 point if at least 50% of the production crew are qualifying persons.

(7) A film that is awarded all the points available under sub-paragraphs (3)(d) (language), (5) (where work carried out) and (6) (personnel) does not pass the cultural test unless—

(a) it is awarded at least 2 points under sub-paragraph (3)(a) (setting),

(b) it is awarded at least 2 points under sub-paragraph (3)(b) (characters), or

(c) it is awarded 4 points under sub-paragraph (3)(c) (story).