

Schedule 1 to the Films Act 1985 Cultural Test Guidance Notes



Version: June 2010

These guidance notes are applicable to films starting principal photography on or after 1 January 2007.

These guidance notes are also applicable to films starting principal photography before 1 January 2007, completing after 1 January and subject to the transitional arrangements.

For further details on the Cultural Test or to arrange a meeting to discuss a particular project please contact the Certification Unit via email certification@ukfilmcouncil.org.uk or telephone the Certification Manager on 020 7861 7521.

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Introduction

1. The UK Film Council is responsible for assessing applications for British Film Certification. A British Film Certificate can be obtained under:
 - (a) Schedule 1 to the Films Act 1985 as revised in 2007
 - (b) The European Convention on Cinematographic Co-Production
 - (c) One of the UK's official Bi-lateral Co-production Agreements
2. These guidelines relate to obtaining a certificate under Schedule 1 to the Films Act 1985 as revised in 2007.
3. The Secretary of State for Culture, Media and Sport is responsible for making the decision about whether to grant approval and issue certificates, on the recommendation of the UK Film Council Certification Unit.
4. 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 a British Film Certificate is a condition for making claims to HM Revenue & Customs (HMRC) for film tax relief. Film tax relief is available under the Finance Act 2006 to films which commenced principal photography on or after 1 January 2007, and under transitional regulations to films which started principal photography before 1 January, were not completed by that date, and which qualify as British either under the Schedule 1 or one of the Co-production agreements.
5. This guidance only relates to whether a film is made in accordance with the requirements of Schedule 1 to the Films Act 1985. It is not relevant to the other criteria for film tax relief in the Finance Act 2006; those criteria are administered by HMRC and have separate guidance. Please see: <http://www.hmrc.gov.uk/films/guidance/index.htm>

Skills Investment Fund

6. The Skills Investment Fund (SIF) is a joint film industry/Government initiative to fund training to develop the skills and talent to help ensure the UK film industry's long-term future. All films which are partly or wholly shot in the UK, and intended for theatrical release, are asked to make a contribution to the SIF. Contributions are mandatory for those in receipt of UK public or lottery funding. The fund is actively supported by the Department for Culture Media & Sport (DCMS), Producers Alliance for Cinema and Television (Pact) and the Motion Picture Association and is carried out in consultation with industry.

Guidance on how to calculate and pay the SIF contributions is available from Skillset, the National Training Organisation for Broadcast, Film, Video and Multimedia (Tel: 020 7520 5774)

<http://www.skillset.org/film/funding/sif/>

Voluntary deposit

7. The UK is committed to supporting its national and regional archives, in order to protect, preserve and make moving image material accessible to all. Further information is available at this link:

<http://www.bfi.org.uk/about/policy/.html>

Co-producers are encouraged to deposit one or more of the following with the British Film Institute (BFI):

- A delivery print on 35mm format;
- A digi-beta or Digital video copy;
- One copy of the post-production script;
- One full set of stills where available;
- Two release posters;
- One set of publicity materials.

It is not compulsory for producers to deposit material at the BFI, and compliance (or non compliance) will not affect the certification process.

Applications for a British Film

Who can apply?

8. An application for British Film Certification must be made by the Film Production Company (FPC) which must be registered as a company in the UK at Companies House (www.companieshouse.co.uk). That is, the company must be incorporated before the start of principal photography and be 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.
9. Company means a limited liability company within the charge of UK Corporation tax. Individuals, partnerships and limited liability partnerships cannot apply for certification.
10. There can only be one FPC in relation to a film. Where there is more than one company meeting this description then the company most directly engaged in these activities is considered to be the FPC.
11. The UK Film Council will not be checking whether the applicant's FPC meets the HMRC's criteria for eligibility for tax relief.

How to apply?

12. Application forms for a British Film Certificate under Schedule 1 to the Films Act 1985 are available on our web-site at:

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

or write to:

Certification Unit
UK Film Council
10 Little Portland Street
London
W1W 7JG

or ask for an application form by telephone: 020 7861 7525

or e-mail: certification@ukfilmcouncil.org.uk

13. Applicants should read these guidance notes when completing an application form. They should also check the legislation (Schedule 1 to the Films Act 1985) and new tax relief in Chapter 3 of Part 3 of the Finance Act 2006 (if you are intending to apply for tax relief) at <http://www.hmrc.gov.uk/films/guidance/index.htm> to ensure that their film meets all the requirements. Incomplete or incorrectly completed applications may lead to delay. The Certification Unit can provide guidance to applicants on any queries about the application process and the requirements under Schedule 1. We are happy to meet applicants to discuss projects. There is no charge for processing applications or for issuing a certificate.
14. Completed application forms together with supporting materials (see the application forms for details) should be sent to the UK Film Council at the address on page 5. Please do not email your applications. Applicants should ensure that the shooting script submitted with the application accurately reflects the final film as seen on screen. If the shooting script differs from the final film in any way which may affect the points awarded in Section A or B then the UK Film Council should be notified.
15. When completing the application form please do not use correction fluid. Amendments may be made by crossing out any error and initialling the change before the statutory declaration is made. Where information is not confirmed at the time of application, please enter "to be confirmed".
16. The UK Film Council will normally issue certificates within 21 days of the receipt of a fully completed application. Applicants are advised that the UK Film Council 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. Where applicants are aware of a deadline by which a certificate will be required, they should submit their application in sufficient time and attach details of such deadline. The UK Film Council accepts no liability for any missed deadlines.
17. An applicant may be asked to provide supporting evidence or to arrange for the film to be seen by the UK Film Council.
18. Where the UK Film Council 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 the opportunity to make representations to the UK Film Council before a final decision is made. The right of appeal against the decision of the Secretary of State for Culture, Media and Sport is 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. Each application is considered on its own merits.
19. Once you have read through the guidelines you need to make an application. There is only one application form for both Interim and Final Certification. This form is available to download from the UK Film Council website at:

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

Interim certification

20. Applicants can apply for an Interim certificate at any point before or during the production of the film. An Interim certificate will be issued before a film is completed if the UK Film Council and DCMS is satisfied that the film passes the Cultural Test based on the proposals set out in the application. This enables the applicant to know whether the film will pass the Cultural Test, based on the information provided. Interim Certification is voluntary, however it is required if a claim for tax relief is being made to the HMRC at the end of the accounting period, before the film is completed.

21. The Interim certificate will be valid for three years, beginning on the date specified on such certificate.

Final certification

22. A Final British Film Certificate will only be issued after the film is completed. Applications for a final certificate should therefore not 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 presentation to the general public (actual release of the film is not essential). This will normally be when it is ready to be delivered to a distributor even if, exceptionally, it is later sent back to the producer for changes.

23. Final Certification is essential before a final claim is made to HMRC on completion of the film.

Letter of comfort

24. Applicants who are not ready to make a full application (information may be incomplete or missing a signed statutory declaration) can submit a draft application and receive a Letter of Comfort that the film will pass the Cultural Test. This Letter of Comfort can not be used to submit a claim to the HMRC but may help give reassurance to the applicant on their plans and help with financing.

Information sharing

25. Information provided by the applicant as part of the application process will not normally be disclosed to third parties. However, information may be shared between DCMS, the UK Film Council and HMRC. In particular, the UK Film Council will use information for the purposes of preparing statistical information about the British Film Industry in its advisory role to DCMS as the Government's strategic agency on film.

Please see <http://www.ukfilmcouncil.org.uk/research> for further details.

26. The Freedom of Information Act 2000 gives members of the public the right to receive information held by the UK Film Council, subject to a number of exemptions. This includes information held in relation to applications received by the UK Film Council. If you choose to apply to the UK Film Council you should be aware that the information you supply, either in whole or in part, may be disclosed under the Act.

27. HMRC may also disclose to UK Film Council and DCMS information received for the purpose of obtaining film tax relief. For example, if HMRC consider that information they receive is inconsistent with the basis on which certification was issued or the information provided by the applicant to the UK Film Council or DCMS. If DCMS

considers that this information constitutes evidence that a film which has previously been certified as British ought not to have been certified; the certificate will be revoked. Such a film would no longer be eligible for film tax relief.

Definition of a British Film

Schedule 1 (The Cultural Test)

28. In order to be certified as a British film the UK Film Council must be satisfied that the film passes the Cultural Test. The main Cultural Test is set out in paragraph 4A of Schedule 1 (as amended by the Films (Definition of "British Film") (No. 2) Order 2006). Alternative tests for animation and documentaries are set out in paragraphs 4B and 4C respectively. Annex A of these guidance notes set out the statutory framework of the revised Cultural Test and how the DCMS and UK Film Council intend to interpret and operate the tests.
29. A film will pass the Cultural Test if it is awarded 16 points out of a possible 31 points.
30. An applicant does not need to apply for all the points that it considers that it is eligible to be awarded and is only asked to fill in the points scored under the categories it is applying for.
31. If the amount of work carried out in respect of any category under Section C (Cultural Hubs) of the Cultural Test is considered to be insignificant in relation to the total amount of work carried out in making the film no points shall be awarded in that category of Section C. This will be handled on a case-by-case basis and is designed to exclude token amounts of work.

Archive footage

32. Except in the case of documentaries, no more than 10% of the running time of the film may include any visual images and/or pictures derived from:
- (a) a film which has already been certified as British (including Co-productions);
- Or
- (b) a film not made by the FPC or producer named in the application.

There is discretion to allow more than 10% archive footage to be included in documentary films. This discretion will only be applied if it is considered appropriate for more than 10% of that film to comprise of archive material in the light of its subject matter.

The 10% rule is invoked if a FPC completes another FPC or producer's unfinished film.

Accountant's report for application for Final Certification

33. The Films (Certification) Regulations 2006 require that, where an application for Final Certification seeks to rely on points in Section C and/or Section D, the final application includes a report to the Secretary of State. Where an application does not seek to rely on any points in Section C and/or Section D, no such report is required at any stage.
34. Where a report is required, it must be prepared by a person who is eligible for appointment as a company auditor under section 1212 of the Companies Act 2006. That 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;
35. 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 applicant 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.
36. The person preparing the report must not have a conflict of interest at any time while the film was being made with the applicant. This includes (and is not limited to) the following examples:
- Acting as the production accountant;
 - Raising or providing film finance;
 - Fees for client and recurring work must not account for more than 15% of gross practice income;
 - Having a mutual business interest with a client or their officers or employees;
 - Provision of other services such as significant valuations or acting for the client in adversarial situations.
37. However, that person may undertake the following activities:
- Preparation of statutory Company Accounts;
 - Engagement as auditor to the FPC;
 - Reporting accountant to the Secretary of State on the Cultural Test;
 - Preparing and signing comfort letters;
 - Advice re EC certificates of nationality.
38. The accountant's report must verify the following information:
- (a) If the applicant is claiming for points under C1 for principal photography, the total number of days of principal photography and the numbers of days of principal photography carried out in the UK.

- (b) If the applicant is claiming for any points in the rest of section C, the total expenditure on the work in relation to which the applicant is applying for points to be awarded and the expenditure of that work carried out in the UK.
- (c) The nationality or ordinary residence of all persons in section D in relation to whom the applicant is applying for points to be awarded.

39. Item (c): The UK Film Council expects applicants to provide auditors with copies of passports and/or other evidence of nationality and/or evidence of country of ordinary residence. The UK Film Council 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 D. The UK Film Council 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 the UK Film Council.
40. 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: Certification Unit, Cultural Test, UK Film Council, 10 Little Portland Street, London, W1W 7JG
41. The report is not required for applications for interim certification. See Annex B – Accountant's Report.

Statutory declaration

42. The Films (Certification) Regulations 2006 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)
43. 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 of anyone with a financial or similar interest in the film including any law firm involved in the making of the film. It is an offence to knowingly and willingly to make a materially false statement in a statutory declaration.
44. A person making a false statutory declaration may be prosecuted and is liable on conviction to imprisonment for a maximum of two years (where conviction follows a trial on indictment), or a fine or both.
45. If the applicant seeks to make the statutory declaration whilst outside the UK, only the British Consul, British Embassy and the British High Commission are authorised to administer a statutory declaration for this purpose.
46. 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.
47. Once the statutory declaration has been made the application form cannot be altered without making another statutory declaration to cover the amendments. Where an applicant is concerned that the form has been completed incorrectly, he should seek independent legal advice or submit the form to the UK Film Council in draft before the statutory declaration is made. Supporting information such as the long format budget, chain of title, shooting script, synopsis and treatment do not need to be signed or stamped.
48. A statutory declaration is required for both Interim and Final Certification.
49. DCMS will refuse or withdraw the certificate where false or misleading information is supplied as part of an application, and will cooperate with HM Revenue & Customs, the Crown Prosecution Service and the police on prosecutions, as appropriate.

Annex A: Cultural test for films

The Cultural Test for films is set out in paragraph 4A of Schedule 1.

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.

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.

A copy of Schedule 1 can be obtained from the office of public sector information.

www.opsi.gov.uk

The Golden Points Rule

The “Golden Points Rule” applies if a film scores all 15 of the points available in sections C, D and A4: if it scores less than two points in section A1 and less than two points in section A2, it must additionally obtain the points in section A3 to pass the Cultural Test. If a film scores two points in section A1 or two points in section A2, it will not require the additional points from section A3 in order to pass the test. See Annex C for a flowchart explanation of the Golden Points Rule.

Section A – Cultural Content

A1 Film set in the UK

4 points

- 4 points will be awarded if at least 75% of the film is set in the United Kingdom.
- 3 points will be awarded if at least 66% of the film is set in the United Kingdom.
- 2 points will be awarded if at least 50% of the film is set in the United Kingdom.
- 1 point will be awarded if at least 25% 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. One page of script is equal to one minute of footage.

A2 Lead characters British Citizens or residents

4 points

Up to four points to be awarded depending on the number of lead characters that are British characters as follows:

- 1 point if one of the three lead characters is British;
- 2 points if one of the two lead characters is British; and
- 4 points if two or more of the three lead characters are British, or if there are only one or two characters and all are British.

A character is a British character if he or she is a British Citizen or a person resident in the UK. A character who was a subject of England, Scotland, Wales or Northern Ireland prior to those countries becoming part of Britain or the United Kingdom will also be considered to be British for the purposes of the test. For example, Robin Hood was English but will be considered to be a British character for the purposes of this test. 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. It is not enough that a person is technically British (e.g. via dual nationality or other artifice) there must be other evidence in the film that the character is actually British e.g. backstory, accent, residence etc.

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

For a documentary only: this may include the presenter, narrator, the subject or other contributors on screen.

A3 Film based on British subject matter or underlying material

4 points

Four points 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 non-fictional 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, story, game, original screenplay, article is written by a British Citizen or resident.

A4 Original dialogue recorded mainly in English language

4 points

4 points will be awarded if at least 75% of the original dialogue is recorded in the English language or in a recognised regional or minority language.

3 points will be awarded if at least 66% of the original dialogue is recorded in the English language or in a recognised regional or minority language.

2 points 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.

1 point will be awarded if at least 25% of the original dialogue is recorded in the English language or in a recognised regional or minority language.

The UK has six 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 - 16 points

Section B – Cultural Contribution

Films play an important role in contributing to the promotion, development and enhancement of British culture. Section B (Cultural Contribution) in particular seeks to identify those films which make a significant Cultural Contribution over and above the cultural content assessed in the four categories in Section A. Section B will be assessed under three key categories: Cultural Creativity, Cultural Heritage and Cultural Diversity.

Cultural Creativity

Film is unique. It is able to communicate both the culture of the whole country as well as an individual's point of view. It has profound abilities to impact. The impact of a film and its success in communicating British culture can in large part be dictated by its creative approach. The success of a film in reaching out to particular groups or sections of society can be fundamentally influenced by the filmmaker's approach. Young people, for example, may respond in a more positive manner to the novel portrayal of British culture than an older film-watching generation. The ability of the filmmaker to tailor his/her creative approach to their target audience can have a profound effect on the film's Cultural Contribution and can therefore be a clear marker for a culturally British film.

Points will be awarded based on the following determinants:

- a. Subject: does the film's portrayal of British culture come as a result of a filmmaker's creative approach? i.e. The content is not necessarily dictated by a pre-existing work but is a creative, new interpretation of British culture;
- b. Other factors relating to creativity which can be shown to have an impact on the final content.

Cultural Heritage

Britain's cultural heritage is an important determinant of the British national identity. It is therefore important to preserve British cultural heritage on screen for audiences of the present and the future. British cultural heritage shapes a common understanding of representation of British people and their contemporary and historical culture. Points will be awarded for a representation of British cultural heritage. For example, a film which tells the story of a British historical event, but which might not necessarily be set in the UK – Gandhi; or the remake of a classic British film - The Dambusters or Bridge on the River Kwai. The issues handled by these films are an important part of the unique British heritage and film can play an important role in ensuring they remain relevant to modern society – for instance by reaching a new younger audience.

More contemporary historical stories such as The Mission, entirely set in South America but with strong resonances for the development of British history, ethnicity and culture are another example of the relevance of British heritage to modern British culture.

The portrayal of heritage on screen is a key determinant of a culturally British film. Heritage also has the potential to be a catalyst for creativity in allowing unique interpretations of stories of British cultural heritage. Preserving cultural heritage builds the collective memory

of the nation, establishing a sense of citizenship and the individual's place in the community.

A Cultural Test which values heritage and which values British cultural perspectives, modern and ancient history and the interpretation of the past and the future is therefore a more accurate arbiter of culturally British filmmaking.

Points will be awarded based on the following determinants:

- a. Subject: does the film contribute to or reflect British cultural heritage? e.g. does the film explore a historical or imagined event whether or not set in the UK;
- b. Other factors relating to cultural heritage which can be shown to have an impact on the final content.

Cultural Diversity

The diversity of Britain is a celebrated feature of British culture and a key determinant of a culturally 'British' film is the communication of this element of our society. When we refer to 'diversity', we are recognising and attaching value to those aspects or dimensions of self and/or community identity relating to gender, ethnicity or national origins, religion or belief, age, sexuality, disability, social and economic background.

An approach which values diversity therefore values and encourages differences in attitudes, cultural perspective, beliefs, ethnic, ability, skills, knowledge and life experiences of people of diverse backgrounds living in Britain. The treatment of such diversity on screen is therefore an important determinant of a culturally British film.

Diversity also has the potential to be a catalyst for creativity and for stimulating cultural value by enhancing the range of stories to be told, the way they are told on screen, and levels of access and engagement in film culture for audiences.

Cultural diversity can directly influence the content and tone of a film; its sensibility and authority. Much has, for example, been written on the issue of the lack of women as directors, and the differing perspectives and sensibilities that women as directors bring to film.

Encouraging cultural diversity implies challenging preconceptions, assumptions and ways of working. It goes beyond simple equal opportunities and recognition of difference and emphasises the potential creative connections that can be forged across different perspectives through access, inclusion, and collaboration – and the direct impact of these on the film as a cultural product.

Lack of diversity, on the other hand, has a potentially cooling effect on content, and a denial of wider access to producing content reduces the ability of local diverse communities to apply any influence over content, by bringing their cultural sensitivity or authenticity into play. It is necessary therefore that diverse communities have the opportunity to be engaged and actively contribute to reflect our position as a culturally diverse nation.

Points will be awarded based on the following determinants of diversity:

- a. Subject/Portrayal: exploring contemporary social and cultural issues of disability, ethnic diversity and social exclusion on screen; promoting and increasing visual, on-screen diversity;
- b. Other cultural diversity factors which can be shown to have an impact on the final content.

Points for each category will be awarded as follows:

- Significant representation/reflection of British Cultural Heritage (1 point)
- Significant representation/reflection of British culture through a novel and creative approach to filmmaking (1 point).
- Significant representation/reflection of British Cultural Diversity:
 - 1 point for subject/portrayal
 - 1 point for other factors impacting on the final content

Two points may be awarded if a film can demonstrate it makes an outstanding contribution towards these factors. A maximum of four points can be awarded in the whole section.

Section C - 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.

C1 Principal photography/visual effects/special effects

2 points

Two points will be awarded if at least 50% of the work on any one of the following activities is carried out in the UK:

- (a) **Principal photography:** 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.
- (b) **Visual Effects:** 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.
- (c) **Special Effects:** 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, Atmospherics, Mechanical Effects, Flying Effects, Pyrotechnics, Animation and puppets, Special Costumes, Action Props.

In addition:

For documentaries only: Work on research and development will also be eligible. Two points will be awarded if at least 50% of the work on this activity is carried out in the UK.

For animation only: Work on shooting, visual design, and layout & storyboarding, will also be eligible. Two points will be awarded if at least 50% of the work on any one of these activities is carried out in the UK.

C2 Music recording/audio post production/picture post production 1 point

One point will be awarded if at least 50% of the work on any one of the following activities is carried out in the UK.

- (a) **Music recording:** This will not include source music. The performing and recording of the following qualify: a new piece of music composed for the film; or a new arrangement/score, of an existing piece of music, created specifically for the film.
- (b) **Audio Post Production.**
- (c) **Picture Post Production:** For the purposes of this test this includes: Auto Picture Editing, Auto Picture Conform, Picture Grade, Online Picture Edit, Digital Intermediate, Telecine, Film Scanning/Recording/Master Grading, Restoration, 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.

For animation only: Work on voice recording will also be eligible. 1 point will be awarded if at least 50% of the work on this activity is carried out in the UK.

Total for Section C – 3 points

Section D – Cultural Practitioners

For the purposes of this test a qualifying person means a citizen or a person ordinarily resident in:

- i) the UK (including citizens of the Isle of Man or Channel Islands),
- ii) any EEA state (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain and Sweden)

To qualify for 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:

www.hmrc.gov.uk/manuals/ntcmanual/eligibility_residency/ntc0350070.htm
www.ind.homeoffice.gov.uk/documents/nisec2gensec/ordinaryresidence?view=Binary

Possession of a contract for employment on the film 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.

D1 Director

1 point

One point 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.

D2 Scriptwriter

1 point

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

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

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.

D3 Producer

1 point

One 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.

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

A producer is defined 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.

D4 Composer

1 point

One 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.

D5 Lead Actors

1 point

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

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

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.

For animations only: this will include actors voicing characters.

For documentaries only: this will include the presenter, narrator, subject or other person who participates and appears in a documentary.

D6 Majority of cast

1 point

One 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.

For animations only: this will include actors voicing characters.

For documentaries only: this will include the presenter, narrator, subject or other person who participates and appears in a documentary.

D7 Key Staff

1 point

One point will be awarded if at least one of the heads of department is a qualifying persons.

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.

For documentaries only: the heads of department are the lead cameraman, the lead sound recordist, the lead editor and the lead researcher.

For animations only: 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.

D8 Majority of Crew

1 point

One 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 that 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 are recognised in the PACT/BECTU Freelance Rate Card.

Total for Section D - 8 points

Total for Sections A, B, C, D – 31 points.

Annex B: Accountant's report

ACCOUNTANT'S REPORT TO THE SECRETARY OF STATE FOR CULTURE, MEDIA AND SPORT FOR A CULTURAL TEST APPLICATION FOR FINAL CERTIFICATION

This report is prepared for the purposes of the Films (Certification) Regulations 2006 and accompanies the application for Final Certification of the film "[name]" as a British film under Schedule 1 to the Films Act 1985.

I/We confirm that this report has been prepared by a person who is eligible for appointment as a company auditor under section 1212 of the Companies Act 2006 and that who is not and was not at any time while the film was being made: in partnership with the applicant or any officer or servant of the applicant; in the employment of the applicant or any officer or servant of the applicant; or an officer or servant of the applicant or, if the applicant is a member of a group of companies, of any other company in that group.

The applicant is responsible for the preparation of the application. It is my/our responsibility to independently verify the particulars in the application set out below and to independently state our opinion about whether any point should be awarded under paragraph [4A(5), 4B(5) or 4C(5)] of Schedule 1 to the Films Act based on my/our examination and to report those matters to the Secretary of State.

I/We have examined the application dated [], together with the supporting documentation and the books of the applicant so far as they relate to the making of this film. My/our assessment includes examination, on a test basis, of evidence relevant to the amounts and information in the application and supporting documents. I/We planned and prepared this report so as to obtain all the information and explanations which I/we consider necessary in order to provide us with sufficient evidence to give reasonable assurance that the information contained in the application and supporting documents are free from material misstatement, whether caused by fraud or other irregularity or error.

On the basis of such examination, I/we verify:

- (a) The total number of days of principal photography are [] and the number of days of principal photography carried out in the United Kingdom are [].
- (b) The total expenditure of the work on [area of work] is £[] and the expenditure of such work carried out in the United Kingdom is £[].

[Provide a separate statement in the form of paragraph (b) above for each element of expenditure, for example visual effects/special effects/research and development/animation/music recording/audio post production/picture post production/voice recording as applicable]

- (c) The nationality or ordinary residence of the [D1-D8 as applicable] is [].

[Repeat as necessary]

On the basis of such examination, it is my/our opinion that [] points should be awarded under paragraph [4A(5), 4B(5), 4C(5)] of Schedule 1 to the Films Act 1985.

Signed [name of individual]

On behalf of [name of firm]

Date

Annex C: Golden Points rule flowchart

