STATUTORY INSTRUMENTS

# 2018 No. 1105

# EXITING THE EUROPEAN UNION

# CINEMAS AND FILMS

# CORPORATION TAX

## The Cultural Tests (Films, Television Programmes and Video Games) (Amendment) (EU Exit) Regulations 2018

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| *Sift requirements satisfied* | *11th September 2018* |
| *Made - - - -* | *22nd October 2018* |
| *Laid before Parliament* | *23rd October 2018* |
| *Coming into force in accordance with regulation 1* | |

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018(**a**).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these regulations) have been satisfied.

**Citation and commencement**

**1.** These Regulations may be cited as the Cultural Tests (Films, Television Programmes and Video Games) (Amendment) (EU Exit) Regulations 2018 and come into force on exit day.

## PART 1

### Amendment of primary legislation

**Amendment of the Films Act 1985**

**2.**—(1) Schedule 1 to the Films Act 1985(**b**) (certification of British films for purposes of film tax relief) is amended as follows.

(2) Omit paragraph 4(4)(**c**).

(3) In paragraph 4A(3)(**d**)—

(**a**) 2018 c. 16.
(**b**) 1985 c. 21.
(**c**) Paragraph 4 was amended by S.I. 2006/643, the Finance Act 2006 (c. 25), Schedule 5(2), paragraph 20 and S.I. 2012/1809.
(**d**) Paragraph 4A was inserted by S.I. 2006/643 and amended by S.I. 2006/3430 and S.I. 2015/86.

(a) in paragraph (a), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state"; and

(b) in paragraph (d), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state".

(4) In paragraph 4B(3)(**a**)—

(a) in paragraph (a), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state"; and

(b) in paragraph (d), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state".

(5) In paragraph 4C(3)(**b**)—

(a) in paragraph (a), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state"; and

(b) in paragraph (d), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state".

(6) In paragraph 4D(**c**)—

(a) in sub-paragraph (1), in the definition of "qualifying person", after "person ordinarily resident in," insert "the United Kingdom or"; and

(b) in sub-paragraph (3)—

(i) in paragraph (a), for "United Kingdom or another EEA state" (in each place where it occurs), substitute "United Kingdom or an EEA state"; and

(ii) in paragraph (b), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state".

# PART 2

## Amendment of subordinate legislation

**Amendment of the Cultural Test (Television Programmes) Regulations 2013**

**3.**—(1) The Cultural Test (Television Programmes) Regulations 2013(**d**) are amended as follows.

(2) In regulation 2(1), in the definition of "qualifying person", after "person ordinarily resident in,", insert "the United Kingdom or".

(3) In regulation 3(4)—

(a) in sub-paragraph (a), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(b) in sub-paragraph (b), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(c) in sub-paragraph (b)(i)(aa), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(d) in sub-paragraph (b)(i)(bb), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(e) in sub-paragraph (b)(ii)(aa), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

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(**a**) Paragraph 4B was inserted by S.I. 2006/643 and amended by S.I. 2006/3430 and S.I. 2015/86.
(**b**) Paragraph 4C was inserted by S.I. 2006/643 and amended by S.I. 2006/3430 and S.I. 2015/86.
(**c**) Paragraph 4D was inserted by S.I. 2006/643 and amended by S.I. 2006/3430 and S.I. 2015/86.
(**d**) S.I. 2013/1381, amended by S.I. 2015/1449, S.I. 2015/1941 and S.I. 2017/1138.

(f) in sub-paragraph (b)(ii)(bb), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(g) in sub-paragraph (b)(iii)(aa), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(h) in sub-paragraph (b)(iii)(bb), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(i) in sub-paragraph (b)(iv), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(j) in sub-paragraph (c), for "another EEA state", substitute "an EEA state"; and

(k) in sub-paragraph (d), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(4) In regulation 4—

(a) in paragraph (4)(a), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(b) in paragraph (4)(b), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(c) in paragraph (4)(b)(i)(aa), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(d) in paragraph (4)(b)(i)(bb), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(e) in paragraph (4)(b)(ii)(aa), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(f) in paragraph (4)(b)(ii)(bb), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(g) in paragraph (4)(b)(iii)(aa), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(h) in paragraph (4)(b)(iii)(bb), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(i) in paragraph (4)(b)(iv), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(j) in paragraph (4)(c), for "another EEA state", substitute "an EEA state"; and

(k) in paragraph (8), for "UK or another EEA state", substitute "United Kingdom or an EEA state".

(5) In regulation 4A—

(a) in paragraph (4)(a), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(b) in paragraph (4)(b), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(c) in paragraph (4)(b)(i)(aa), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(d) in paragraph (4)(b)(i)(bb), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(e) in paragraph (4)(b)(ii)(aa), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(f) in paragraph (4)(b)(ii)(bb), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(g) in paragraph (4)(b)(iii)(aa), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(h) in paragraph (4)(b)(iii)(bb), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(i) in paragraph (4)(b)(iv), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(j) in paragraph (4)(c), for "another EEA state", substitute "an EEA state";

(k) in paragraph (4)(d), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state"; and

(l) in paragraph (8), for "UK or another EEA state", substitute "United Kingdom or an EEA state".

(6) In regulation 10—

(a) in sub-paragraph (a), for "United Kingdom or another EEA state" (in each place where it occurs), substitute "United Kingdom or an EEA state";

(b) in sub-paragraph (b), for "another EEA state" (in each place where it occurs), substitute "an EEA state"; and

(c) in sub-paragraph (c), for "United Kingdom or another EEA state" (in each place where it occurs), substitute "United Kingdom or an EEA state".

**Amendment of the Cultural Test (Video Games) Regulations 2014**

**4.**—(1) The Cultural Test (Video Games) Regulations 2014(**a**) are amended as follows.

(2) In regulation 2, in the definition of "qualifying person", after "person ordinarily resident in,", insert "the United Kingdom or".

(3) In regulation 3—

(a) in sub-paragraph (a), for "United Kingdom or another EEA state" (in each place where it occurs), substitute "United Kingdom or an EEA state";

(b) in sub-paragraph (b), for "United Kingdom or another EEA state" (in each place where it occurs), substitute "United Kingdom or an EEA state"; and

(c) in sub-paragraph (c), for "another EEA state" (in each place where it occurs), substitute "an EEA state".

(4) In regulation 7—

(a) in sub-paragraph (a), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(b) in sub-paragraph (b), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(c) in sub-paragraph (b)(i)(aa), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(d) in sub-paragraph (b)(i)(bb), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(e) in sub-paragraph b(ii)(aa) for, "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(f) in sub-paragraph (b)(ii)(bb) for, "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(g) in sub-paragraph (b)(iii)(aa) for, "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

(h) in sub-paragraph (b)(iii)(bb) for, "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state";

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(**a**) S.I. 2014/1958.

(i) in sub-paragraph (b)(iv) for, "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state"; and

(j) in sub-paragraph (c) for, "another EEA state", substitute "an EEA state".

(5) In regulation 11(1), for "United Kingdom or another EEA state", substitute "United Kingdom or an EEA state".

*Margot James*
Minister for Digital and the Creative Industries
Department for Digital, Culture, Media and Sport

22nd October 2018

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations amend European Economic Area ("EEA") references in the statutory cultural tests used to assess whether films, television programmes and video games are culturally British in order to qualify for tax relief on production costs, in accordance with the Corporation Tax Act 2009.

The inclusion of UK nationals within the definitions of qualifying production personnel relies upon the fact that the UK is an EEA state. As the UK will cease to be an EEA state once it leaves the European Union, such references need to be amended to ensure British producers remain eligible to claim these tax reliefs.

Part 1 amends primary legislation and Part 2 amends subordinate legislation.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sectors is foreseen.

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