EXPLANATORY MEMORANDUM TO THE

FILM (CERTIFICATION) (AMENDMENT) REGULATIONS 2006

2006 No. 642

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations amend the Films (Certification) Regulations 1985 to require an application for certification of a film as a British film under paragraph 2(1) of Schedule 1 to the Films Act 1985 to include particulars relating to how the film meets the requirement to pass the cultural test.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Schedule 1 to the Films Act 1985 sets out the requirements to be satisfied for a film to be a British film for the purposes of that Schedule: certification under paragraph 3 of that Schedule as qualifying for tax reliefs. The definition of a British film will be modified by the draft Films (Definition of "British" Film) Order 2006 to insert a requirement to pass cultural test.

4.2 Paragraph 2(3) and (4) of Schedule 1 requires an applicant for certification to furnish to the Secretary of State information relating to the application and, if the Secretary of State directs, an accompanying statutory declaration as to the truth of the information furnished. Paragraph 10(1) of Schedule 1 confers on the Secretary of State the power to make regulations *inter alia* prescribing the particulars and evidence necessary for satisfying her that a film is a British film. These Regulations amend the particulars required in an application to reflect the new definition of a British film i.e. the particulars to show whether the cultural test has been passed.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Explanatory Memorandum to the draft Films (Definition of "British Film") Order 2006 (copy attached) sets out the policy background for the introduction of the cultural test into the definition of a British film.

7.2 As a result of this new definition the Films (Certification) Regulations 1985 must be amended to reflect the particulars needed to show that the new definition has been met. These Regulations remove the requirement to provide particulars relating to parts of the definition which are repealed – particulars E, G and H of regulation 6 of the 1985 Regulations; and insert new particulars relating to the whether points should be awarded for elements of the cultural test.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument but see the assessment prepared for the draft Film (Definition of "British Film") Order 2006 (attached).

9. Contact

Dee Davison at the Department for Culture, Media and Sport Tel: 020 7211 6435 or e-mail: dee.davison@culture.gsi.gov.uk can answer any queries regarding the instrument.