EXPLANATORY MEMORANDUM TO

THE FILMS (CERTIFICATION) REGULATIONS 2006

2006 No. 3281

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 prescribe the particulars and evidence necessary for satisfying the Secretary of State that a film is a British film for the purposes of Schedule 1 to the Films Act 1985. They replace the Films (Certification) Regulations 1985 following the modification of the cultural test in Schedule 1 by the Films (Definition of "British Film") (No. 2) Order 2006.

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 as a British film under paragraph 3 of that Schedule is a condition for qualifying for the new film tax relief introduced by the Finance Act 2006. The definition of a British film in Schedule 1 was modified by the Films (Definition of "British" Film) (No. 2) Order 2006.

4.2 Paragraph 2(5) and (6) of Schedule 1 requires an applicant for certification to provide the Secretary of State information relating to the application and, if the Secretary of State requires, an accompanying statutory declaration as to the truth of the information provided. Paragraph 10(1) of Schedule 1 confers on the Secretary of State the power to make regulations prescribing the form of the application under paragraph 2 of Schedule 1 and prescribing the particulars and evidence necessary for satisfying her that a film is a British film. These Regulations do so in relation to the revised definition of a British film.

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 Films (Definition of "British Film") (No. 2) Order 2006 came into force on 1st January 2007 and modified the definition of a British film set out in Schedule 1 to the Films Act 1985. Films which commence principal photography on or after 1st January 2007 will have to pass a cultural test in order to be certified as a British film. The cultural test awards points in four main sections: in relation to the content of the film; the cultural contribution of the film; the extent the film was made in the United Kingdom; and the extent the film was made by nationals or residents of the European Economic Area.

7.2 In order to be satisfied that a film meets this definition it is necessary to require the applicant to provide information in the application form to enable the Department to assess whether the film should be awarded any points under the cultural test. These Regulations do so by prescribing the particulars and evidence that the applicant must include in the application.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument but please see the assessment prepared for the draft Film (Definition of "British Film") (No. 2) Order 2006 attached to that instrument's explanatory memorandum.

9. Contact

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