



STATUTORY INSTRUMENTS.

S.I. No. 4 of 2015



FILM REGULATIONS 2015

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FILM REGULATIONS 2015

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S.I. No. 4 of 2015

FILM REGULATIONS 2015

The Revenue Commissioners, in exercise of the powers conferred on them by section 481 of the Taxes Consolidation Act 1997 (No. 39 of 1997), with the consent of the Minister for Finance, and with the consent of the Minister for Arts, Heritage and the Gaeltacht in relation to the matters to be considered regarding the issue of authorisations under section 481(2), hereby make the following regulations:

PART 1

GENERAL

Citation and commencement

1. (1) These Regulations may be cited as the Film Regulations 2015.

(2) These Regulations come into operation on 12 January 2015 as respects applications made on or after that date by a producer company for a certificate under section 481 of the Act of 1997.

Interpretation

2. In these Regulations, except where the context otherwise requires—

“Act of 1997” means the Taxes Consolidation Act 1997 (No. 39 of 1997);

“auditor” means a person qualified for appointment as auditor of a company in accordance with Part X (as amended) of the Companies Act 1990 (No. 33 of 1990);

“certificate” means a certificate issued by the Revenue Commissioners in accordance with section 481(2A)(a) of the Act of 1997;

“compliance report” means a compliance report as provided for in section 481(2C)(d)(iii) of the Act of 1997;

“eligible goods, services and facilities” shall be construed in accordance with Part 8;

“Minister” means Minister for Arts, Heritage and the Gaeltacht;

“records” includes records held in a machine readable form;

“top sheet production expenditure summary” means a summary of those items of expenditure that may be accepted by the Revenue Commissioners, in accordance with Part 7, classified into the principal categories of the film production

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 16th January, 2015.*

budget or in such a form and containing such information as the Revenue Commissioners may specify.

PART 2

APPLICATION TO REVENUE COMMISSIONERS FOR CERTIFICATION AND INFORMATION AND DOCUMENTATION TO BE PROVIDED

Application for certification — general

3. An application for a certificate under section 481 of the Act of 1997 shall be made in writing to the Revenue Commissioners by a producer company under subsection (2A) of that section.

Application for certification — specific

4. Each application for a certificate made under section 481(2A) of the Act of 1997 shall be accompanied by the information set out in Schedule 1 and that information shall be included in the order and manner set out in that Schedule.

PART 3

CATEGORIES OF FILMS ELIGIBLE FOR CERTIFICATION

Categories of films eligible for certification

5. Films which are within any of the categories set out in Schedule 2 are eligible for certification by the Revenue Commissioners.

Categories of films not eligible for certification

6. Films which are within any of the categories set out in Schedule 3 are not eligible for certification by the Revenue Commissioners.

PART 4

ISSUE OF AUTHORISATIONS BY MINISTER

Issue of authorisation

7. An authorisation shall not be given by the Minister under section 481(2) of the Act of 1997 in relation to a film unless—

- (a) the film is within a category of film set out in Schedule 2, and
- (b) the Minister is satisfied that the film will either or both—
 - (i) act as an effective stimulus to film making in the State through, among other things, the provision of quality employment and training opportunities, and
 - (ii) be of importance to the promotion, development and enhancement of the national culture including, where applicable, the Irish language.

PART 5

RECORDS TO BE MAINTAINED AND PROVIDED BY A PRODUCER COMPANY AND A
QUALIFYING COMPANY*Types of records*

8. (1) The records which a producer company and a qualifying company shall provide to the Revenue Commissioners when requested to do so shall include—

- (a) the books of first entry, including a cash receipts book, purchases day book, cheque payments book, creditors ledger and petty cash book,
 - (b) trial balance, all ledgers and journals to which all transactions are posted,
 - (c) the back-up documentation from which the books of first entry were completed, including—
 - (i) suppliers' invoices, credit notes, statements and delivery notes,
 - (ii) cheque stubs and petty cash vouchers, and
 - (iii) bank statements and correspondence including those items verifying lodgements into bank accounts and transfers out of such accounts,
- and
- (d) auditors' linking documents including documents drawn up in the making up of accounts and showing details of the calculations linking the records to the accounts.

(2) Notwithstanding any other provision of the Act of 1997 the Revenue Commissioners may request the records to which subsection (1) relates at any time within a period of up to 6 years after the later of—

- (a) delivery and acceptance of the qualifying film, or
- (b) where the producer company fails to submit a complete compliance report on time, within 6 years of the provision of such report.

Records to indicate certain breakdown of expenditure

9. (1) The records which a producer company shall provide to the Revenue Commissioners when requested to do so shall include a breakdown of expenditure to show—

- (a) the amount of money expended directly on the employment of eligible individuals and on the provision of eligible goods, services and facilities, and
- (b) the amount of money expended otherwise than in accordance with paragraph (a).

(2) Notwithstanding any other provision of the Act of 1997 the Revenue Commissioners may request the records to which subsection (1) relates at any time within a period of up to 6 years after the later of—

- (a) delivery and acceptance of the qualifying film, or
- (b) where the producer company fails to submit a complete compliance report on time, within 6 years of the provision of such report.

PART 6

NOTIFICATION OF COMPLETION OF PRODUCTION AND PROVISION OF COPIES OF FILM AND COMPLIANCE REPORT

Notification of completion of production

10. A producer company shall, within 4 months of the completion of production of a qualifying film, notify the Revenue Commissioners in writing of the date of such completion.

Provision of copies of film

11. (1) A producer company shall, within 4 months of the completion of production of a qualifying film, provide a copy of the film to the Revenue Commissioners and 2 copies of the film to the Minister.

(2) The copies of the film shall be provided on DVD or in such other format as may be specified in the certificate issued by the Revenue Commissioners in relation to the film.

Compliance report

12. (1) A producer company shall, within 4 months of the delivery and acceptance of a qualifying film, provide a compliance report in relation to the film to the Revenue Commissioners.

- (2) The report shall be—
- (a) in the form specified for that purpose in Schedule 4,
 - (b) accompanied by the matters set out in Schedule 5, and
 - (c) sent to the Revenue Commissioners by registered post or other form of recorded delivery.

PART 7

TYPE OF EXPENDITURE THAT MAY BE ACCEPTED AS EXPENDITURE ON PRODUCTION OF A QUALIFYING FILM

Acceptable expenditure

13. (1) Subject to Regulation 14, the type of expenditure which may be accepted by the Revenue Commissioners as expenditure on the production of a qualifying film shall include all expenditure necessary to produce the film from

the development phase up to and including post-production together with the cost of providing an archive print.

(2) The producer company shall notify the Revenue Commissioners in writing within 7 days of the first incurrence of an eligible expenditure amount following the date on which an application has been made under Regulation 4.

Unacceptable expenditure

14. The following sums shall not be included in the type of expenditure accepted by the Revenue Commissioners as expenditure on the production of a qualifying film:

- (a) costs associated with the distribution or promotion of the film;
- (b) costs arising after delivery of the materials contracted for with the relevant distributor or broadcaster;
- (c) costs of organising or providing pre-sales monies;
- (d) costs of acquiring rights other than those necessary for the production of the film;
- (e) capital expenditure on assets used in the production of the film which are not used up in that process;
- (f) amounts that are paid out of, or are dependent on, or arise from rights in, the receipts, earnings or profits of the film;
- (g) fees or other payments deferred unless the payment of such sums is made no later than 4 months after the first occasion on which the completed film is delivered to any financier or distributor thereof.

PART 8

ELIGIBLE GOODS, SERVICES AND FACILITIES AND CONDITIONS TO BE SATISFIED

Interpretation — Part 8

15. In this Part—

“provided within the State” means—

- (a) (i) in the case of goods which are dispatched or transported, that the dispatch or transportation to the person to whom they are provided begins in the State, and
- (ii) in the case of goods which are not dispatched or transported, that the goods are located in the State at the time they are provided;
- (b) in the case of facilities, that the facilities are located in the State;

- (c) in the case of transport, that the transportation takes place within the State, or, where transportation takes place across borders, that the journey begins or ends in the State;
- (d) in the case of a service, that the activities constituting such service are carried on in the State and that any goods, facilities or transport associated with such service satisfy any of the conditions specified in paragraphs (a) to (c);

“relevant person” means a person carrying on a business in the State from a fixed place of business.

Eligible goods, services and facilities

16. Subject to Regulation 17, goods, services and facilities are goods, services and facilities for the purposes of section 481(2A)(g)(iv)(II) of the Act of 1997 where they are used or consumed in the State in the production of a qualifying film and are provided within the State by a relevant person directly or indirectly to a qualifying company.

Other person engaged

17. Where a relevant person engages, or arranges for, another person to provide goods, services or facilities, such goods, services or facilities shall not be goods, services and facilities for the purposes of section 481(2A)(g)(iv)(II) of the Act of 1997 unless that other person is also a relevant person.

PART 9

PAYMENT OF SPECIFIED AMOUNT

Date for payment

18. No part of a specified amount shall be payable to a producer company earlier than 7 days after the date on which a certificate has issued.

PART 10

MISCELLANEOUS

Currency exchange rate

19. The currency exchange rate to be applied to the expenditure on the production of a qualifying film, in any application to the Revenue Commissioners for a certificate under section 481 of the Act of 1997 or in any compliance report provided in accordance with Regulation 12, shall be the currency exchange rate on the day the application is made or such other currency exchange rate as the Revenue Commissioners may specify.

PART 11

REVOCATION

Revocation

20. The Film Regulations 2008 (S.I. 357 of 2008) are revoked save in so far as they relate to any application by a producer company made before 12 January 2015 for a certificate under section 481 of the Act of 1997.

SCHEDULE 1**Information to accompany an application made for a certificate under section 481(2A) of the Act of 1997**

1. Tab A Covering letter of application
2. Tab B Track record and CVs for Producer, Director, Writer(s)
3. Tab C Synopsis of Film
4. Tab D Completed Screenplay, Sample Television Scripts or Storyboard
5. Tab E Production Schedule
6. Tab F Screenplay and Writers' Agreements and Option agreement
7. Tab G Production, Financing and Distribution Agreement(s)
8. Tab H Production Budget, including—
 - (a) a topsheet production expenditure summary,
 - (b) details of each element of expenditure that may be accepted by the Revenue Commissioners as expenditure on the production of a qualifying film, and
 - (c) details of each element of expenditure that may be accepted by the Revenue Commissioners as expenditure on the production of a qualifying film and incurred directly in the State on the employment of eligible individuals and on the provision of eligible goods, services and facilities
9. Tab I Appendix A — Schedule of Fees
10. Tab J Letters of intent and, if applicable, letters of commitment from sources of funding other than relevant investments
11. Tab K Pre-Sales and Distribution Agreements
12. Tab L Completion Bond Contract, if applicable
13. Tab M Appendix B — Person Days Schedule
14. Tab N Full List of Heads of Departments
15. Tab O Other relevant agreements and documentation
16. Tab P A diagram detailing all the parties involved, their respective responsibilities and the flow of funds between them
17. Tab Q Details of any issues that might impact on the conditions for relief under section 481 of the Act of 1997
18. Tab R Where any agreements requested above are unavailable at the time of application, an outline of the proposed agreements, including details of the purpose of each agreement
19. Tab S Confirmation that no financial arrangements of a type referred to in section 481(2C)(b) of the Act of 1997 exist or are proposed
20. Tab T Details of all companies controlled by the applicant
21. Tab U Solicitor's confirmations on financial closing, if applicable
22. Tab V Accountant's confirmations on financial closing, if applicable
23. Tab W Irish Film Board confirmation of funding, if applicable

- 24. Tab X Guarantee, surety bond or similar instrument, if applicable
- 25. Tab Y Tax Clearance Certificates
- 26. Tab Z Training modules proposed

SCHEDULE 2

Categories of films eligible for certification by Revenue Commissioners

1. Feature film
2. Television drama
3. Animation (whether computer generated or otherwise, but excluding computer games)
4. Creative documentary, where the project—
 - (a) is based on an original theme, preferably demonstrated by a script or treatment, the design and style of which bear the undeniable stamp of creative originality and personal perspective,
 - (b) contains a certain timeless element so that there is no loss of interest when the event with which it may be linked has passed,
 - (c) involves production arrangements which give evidence of, in particular, a substantial period of preparation and a significant period devoted to post-production, and
 - (d) contains significant original filming and does not merely report information

SCHEDULE 3

Categories of films not eligible for certification by Revenue Commissioners

- (1) Films made for exhibition as an advertisement or advertising programme
- (2) Films comprising or substantially based on—
 - (a) public or special performances staged for filming or otherwise,
 - (b) sporting events,
 - (c) games or competitions,
 - (d) current affairs or talk shows,
 - (e) demonstration programmes for tasks, hobbies or projects,
 - (f) review, magazine style or lifestyle programmes,
 - (g) unscripted or reality type programmes, or
 - (h) product produced in-house by a broadcaster or for domestic consumption in one country.

SCHEDULE 4

Compliance Report Form

Company Name:

Name of Film:

Certificate Number:

Declaration

I declare that to the best of my knowledge and belief the information given in this Report is correct, and that the conditions of relief applying to the company and film are satisfied and in particular that:

- The film was delivered and accepted on
- Name:

Address:

is the Banking Institution employed in relation to the administration of production expenditure incurred in the State

- All the documentation and final signed, dated and witnessed versions of all agreements, required to be submitted, by the producer company, as part of the application for certification, including, where applicable a Completion Bond, have been submitted.
- All the conditions contained in the certificate issued to the qualifying company under section 481 of the Taxes Consolidation Act 1997, were complied with.
- The sole activity of the qualifying company has been the production of the qualifying film.
- The producer company and qualifying company have maintained records, in accordance with Part 5 of the Film Regulations 2015.
- The attachments listed in the schedule are enclosed.

Signature:

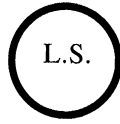
Date:

Capacity: Director

SCHEDULE 5**Documents to accompany a compliance report in relation to a qualifying film**

1. Evidence that the film has been commercially broadcast, shown in a commercial cinema or has been commercially distributed in DVD format, or such other format as may be specified in the certificate.
2. A copy of the film in DVD format or such other format as may be specified in the certificate issued by the Revenue Commissioners in relation to the film.
3. A report by the qualifying company's auditors for the purposes of the certificate issued under section 481 of the Act of 1997, which includes-
 - (a) details of the amount of money expended directly in the State on the employment of eligible individuals and on the provision of eligible goods, services and facilities, itemised in accordance with the top sheet production expenditure summary,
 - (b) details of the amount of the entire production expenditure on the qualifying film, itemised in accordance with the top sheet production expenditure summary,
 - (c) confirmation that the provisions of Chapter 1A of Part 18 of the Act of 1997 have been complied with,
 - (d) details of any outstanding creditors or any other amounts due by the qualifying company at the date of the auditors' report.
 - (e) in a case where a payment of an amount equal to at least 30 per cent of the specified amount was made by the qualifying company to any person or to a group of 2 or more persons, who are connected (within the meaning of section 10 of the Act of 1997) with each other, details of:
 - (i) the identity of that person or persons,
 - (ii) the nature of the goods, services or facilities provided by that person or persons to the qualifying company, and
 - (iii) the amount or amounts paid to that person or persons,
 - (f) details of any foreign currency rates used,
 - (g) details of any related party transactions in accordance with generally accepted accounting principles,
 - (h) a statement that no significant relevant events have occurred since the date notified to Revenue, in accordance with Regulation 10, which would alter, to any material extent, the figures or confirmations contained therein, and
 - (i) the date upon which the completed qualifying film is first delivered to any financier or distributor of the qualifying film.
4. Details of the source of all amounts used to finance the entire production expenditure on the qualifying film.

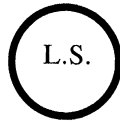
The Minister for Arts, Heritage and the Gaeltacht consents to the making of these Regulations, insofar as they relate to the matters to be considered regarding the issue of authorisations under subsection (2) of section 481.



GIVEN under the Official Seal of the Minister for Arts, Heritage and the Gaeltacht,
9 January 2015.

HEATHER HUMPHRIES,
Minister for Arts, Heritage and the Gaeltacht.

The Minister for Finance consents to the making of these Regulations.



GIVEN under the Official Seal of the Minister for Finance,
9 January 2015.

MICHAEL NOONAN,
Minister for Finance.

GIVEN under my hand,
12 January 2015.

NIALL CODY,
Revenue Commissioner.

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nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€4.06



Wt. (B31047). 300. 1/15. Clondalkin. Gr 30-15.