

Amendment of section 481 (relief for investment in films) of Principal Act.-Finance Act 2004

28.—(1) Section 481 of the Principal Act is amended—

(a) in subsection (1)—

(i) by inserting the following after the definition of “authorised officer”:

“ ‘eligible individual’ means an individual who is a citizen of Ireland or of another Member State of the European Communities, or an individual domiciled, resident or ordinarily resident in the State or in another Member State of the European Communities;”,

(ii) in the definition of “film”, by substituting the following for paragraph (a):

“(a) a film of a kind which is included within the categories of films eligible for certification by the Revenue Commissioners under subsection (2A), as specified in regulations made under subsection (2E), and”,

(iii) in the definition of “Minister” by substituting “Arts, Sport and Tourism” for “Arts, Heritage, Gaeltacht and the Islands”,

(iv) by substituting the following for the definition of “qualifying film”:

“ ‘qualifying film’ means a film in respect of which the Revenue Commissioners have issued a certificate under subsection (2A), which has not been revoked under subsection (2D);”

(v) in the definition of “qualifying period” by substituting “31 December 2008” for “31 December 2004”, and (vi) in the definition of “relevant investment”—

(I) by substituting the following for paragraph (b):

“(b) paid by the allowable investor company or the qualifying individual, as the case may be, for the purposes of enabling the qualifying company to produce a film in respect of which, at the time such sum of money is paid, the authorised officer has given notice in writing to the qualifying company that the Revenue Commissioners are satisfied for the time being that an application in writing, in the form prescribed by the Revenue Commissioners and containing such information as may be specified in regulations made under subsection (2E), has been made to enable the Revenue Commissioners to consider whether a certificate should be issued to that company under subsection (2A), and”,
and

(II) by substituting “other than a provision for its repayment in the event of the Revenue Commissioners not giving a certificate under subsection (2A)” for “other than a provision for its repayment in the event of the Minister not giving a certificate under subsection (2)”,

(b) in subsection (2)—

(i) by substituting the following for paragraphs (a) and

(b): “(a) The Minister, on request from the Revenue Commissioners following an application to them by a qualifying company for a certificate under subsection (2A) in relation to a film to be produced by the company, may subject to paragraph (b) and in accordance with regulations made

under subsection (2E), give authorisation to the Revenue Commissioners that they may, subject to subsection (2A), issue a certificate under that subsection to the qualifying company in relation to that film.

(b) In considering whether to give the authorisation referred to in paragraph (a), the Minister, in accordance with regulations made under subsection (2E), shall have regard to—

(i) the categories of films eligible for certification by the Revenue

(h) The Revenue Commissioners, having consulted with the Minister as appropriate, may amend

or revoke any condition (including a condition added by virtue of this paragraph) specified in the certificate, or add to such conditions, by giving notice in writing to the qualifying company concerned of the amendment, revocation or addition, and this section shall apply as if—

- (i) a condition so amended or added by the notice was specified in the certificate, and
- (ii) a condition so revoked was not specified in the certificate.

(ii) (2B) In carrying out their functions under this section the Revenue Commissioners may—

(a) consult with any person, agency or body of persons, as in their opinion may be of assistance

to them, and (b) notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by, or under, the Tax Acts or any other statute or otherwise, disclose any detail in a qualifying company's application which they consider necessary for the purposes of such consultation.

(2C) A company shall not be regarded as a qualifying company for the purposes of this section—

(a) unless the company, in relation to a qualifying film, notifies the Revenue Commissioners in

writing immediately when the principal photography has commenced, the first animation drawings have commenced or the first model movement has commenced, as appropriate,

(b) if the financial arrangements which the company enters into in relation to the qualifying film

are—

(i) financial arrangements of any type with a person resident, registered or operating in a territory other than—

(I) a Member State of the European Communities, or (II) a territory with the government of which, arrangements having the force of law by virtue of section 826(1)(a), have been made, or

(ii) financial arrangements under which funds are channelled, directly or indirectly, to, or through, a territory other than a territory referred to in clause (I) or (II) of subparagraph (i),

(c) unless the company provides, when requested to do so by the Revenue Commissioners, for the purposes of verifying compliance with the provisions governing the relief or with any condition specified in a certificate issued by them under subsection (2A)(a), evidence to vouch each item of expenditure in the State or elsewhere on the production and distribution of the qualifying film, whether expended by the qualifying company or by any other person engaged, directly or indirectly, by the qualifying company to provide goods, services or facilities in relation to such production or distribution and, in particular, such evidence shall include—

(i) records required to be kept or retained by the company by virtue of section 886, and (ii) records, in relation to the production and distribution of the qualifying film, required to be kept or retained by that other person by virtue of section 886, or which would be so required if that other person were subject to the provisions of that section, and (d) unless the company, within such time as is specified in the regulations made under subsection(2E)—

(i) notifies the Revenue Commissioners in writing of the date of completion of the production of the qualifying film,(ii) provides to the Revenue Commissioners and to the Minister, such number of copies of the film in such format and manner as may be specified in those regulations,and

(iii) provides to the Revenue Commissioners,

a compliance report, in such format and manner specified in those regulations, which proves to the satisfaction of the Revenue Commissioners that—

(I) the provisions of this section in so far as they apply in relation to the company and a qualifying film have been met, and (II) any conditions attaching to a certificate issued to the company in relation to a qualifying film under subsection (2A)(a) have been fulfilled.

(2D) Where a company fails—

(a) to comply with any of the provisions of subsection (2C) or any other provision governing the relief, or (b) to fulfil any of the conditions to which a certificate issued to it under paragraph (a) of subsection (2A) is subject, by virtue of paragraph (g) or (h) of that subsection, that failure shall constitute the failure of an event to happen by reason of which relief may be withdrawn under subsection (11) and the Revenue Commissioners may, by notice in writing served by registered post on the company, revoke the certificate.

(2E) The Revenue Commissioners with the consent of the Minister for Finance, and with the consent of the Minister in relation to the matters to be considered regarding the issue of an authorisation under subsection (2), shall make regulations with respect to the administration by them of the relief under this section and with respect to the matters to be considered by the Minister for the purposes of that subsection and, without prejudice to the generality of the foregoing, regulations under this subsection may include provision—

(a) governing the application for certification pursuant to subsection (2A) and the information

and documents to be provided in or with such application,

(b) specifying the categories of films eligible for certification by the Revenue Commissioners under subsection (2A),

(c) prescribing the form of such application,

(d) governing the records that a qualifying company shall maintain or provide to the Revenue Commissioners,

(e) governing the period for which, and the place at which, such records shall be maintained,

(f) specifying the time within which a qualifying company shall notify the Revenue Commissioners of the completion of the production of a qualifying film,

(g) specifying the time within which, and the format, number and manner in which, copies of a

qualifying film shall be provided to the Revenue Commissioners and to the Minister,

(h) specifying the form and content of the compliance report to be provided to the Revenue Commissioners, the manner in which such report shall be made and verified, the documents to accompany the report and the time within which such report shall be provided,

(i) governing the type of expenditure which may be accepted by the Revenue Commissioners as

expenditure on the production of a qualifying film,

(j) governing the provision of the goods, services and facilities referred to in subsection (2A)(g)(iv)(II), including the place of origin of those goods, services and facilities, the place in which they are provided and the location of the supplier,

(k) specifying the currency exchange rate to be applied to expenditure on the production of a qualifying film, and

(l) specifying the criteria to be considered by the Minister, in relation to the matters referred to in subsections (2)(b)(i) and (ii)—

(i) in deciding whether to give authorisation to the Revenue Commissioners under subsection (2)(a), and

(ii) in specifying conditions in such authorisation, as provided for in subsection (2)(b), and the information required for those purposes to be included in the application made to the Revenue Commissioners under subsection

- (2A) by a qualifying company.”,
- (d) in subsection (8), by substituting “the year of assessment 2008” for “the year of assessment 2004”,
- (e) in subsection (9), by substituting “the year of assessment 2008” for “the year of assessment 2004”,
- (f) in subsection (11)(a), by substituting “the revocation, under subsection (2D), by the Revenue Commissioners of a certificate issued by them under subsection (2A)” for “the revocation by the Minister of a certificate under subsection (2)”,
- (g) in subsection (13), by deleting paragraphs (b) and (c), and
- (h) by inserting the following subsection after subsection (21): “(22) The Revenue Commissioners shall be responsible for verifying compliance with conditions specified in any certificate issued by the Minister prior to the day appointed by order made by the Minister for Finance for the coming into operation of this subsection, where the qualifying company has not, prior to the day so appointed, submitted the items, statements, reports or other matters required to be submitted to the Minister under the terms of Amendment of Chapter 1A (investment undertakings) of Part 27 of Principal Act. such certificate to enable the Minister to verify such compliance.
- (2 3) Every regulation made under this section shall be laid before Da’ il E’ ireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Da’ il E’ ireann within the next 21 days on which Da’ il E’ ireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.
- (2) This section shall come into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions.

Finance Act 2006

18.—(1) Section 481 of the Principal Act is amended—

(a) by substituting the following for subsection (2)(c):

“(c) The specified percentage shall not exceed 80 per cent but, in any case to which this paragraph relates, the total cost of production of the film which is met by relevant investments shall not exceed \35,000,000.”,

and

(b) by inserting the following after subsection 22 : “(22A) Any functions which are authorised by this section to be performed or discharged by the Revenue 40 Commissioners may be performed or discharged by an authorised officer and any references in this section to the Revenue Commissioners shall, with any necessary modifications, be construed as including references to the authorised officer.”.

(2) *Subsection (1)(a)* shall have effect on such day as the Minister for Finance may by order appoint.