



Film Levy Finance Act 1981

1981 CHAPTER 16

An Act to consolidate the Cinematograph Films Acts 1957 to 1980. [15th April 1981]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The Agency

1 The Agency

- (1) There shall continue to be a body corporate called the British Film Fund Agency (in this Act referred to as "the Agency").
- (2) The Agency shall consist of such number of members appointed by the Secretary of State, not being less than three nor more than five, as he may from time to time determine.
- (3) The Secretary of State shall satisfy himself with respect to any person whom he proposes to appoint to be a member of the Agency that that person has no such financial or industrial interest as is likely to affect him in the discharge of his functions.
- (4) Schedule 1 (which contains supplementary provisions relating to the Agency) shall have effect.

The exhibitors' levy

2 Levy on exhibitors

- (1) The Secretary of State shall continue to provide by regulations for the imposition upon exhibitors of a levy in respect of—
 - (a) the period of 56 weeks beginning on 21st September 1980, and
 - (b) each of the four successive periods of 52 weeks following that period.

- (2) Regulations under this section—
- (a) shall provide for defining the classes of persons, being exhibitors, who are to be liable to the levy, and may provide for the exemption of any exhibitors or classes of exhibitors;
 - (b) shall specify the rate of the levy or the method by which it is to be calculated and may make different provision in relation to different exhibitors or classes of exhibitors;
 - (c) shall contain provisions as to the times at which payments shall be made in respect of the levy; and
 - (d) may make such incidental or consequential provision as may appear to the Secretary of State to be necessary or expedient for the purposes of the regulations.
- (3) The Secretary of State shall discharge the duty imposed on him by subsection (1) in such manner as will secure that the amount to be yielded by way of levy in respect of each period in respect of which it is imposed will, in his estimation, be neither less than £2 million nor more than £12 million.
- (4) In determining the amount to be so yielded, the Secretary of State shall have regard to the prevailing economic circumstances of both exhibitors and makers of British films as well as to the prevailing level of production of such films.
- (5) The Secretary of State may by order substitute for either or both of the sums specified in subsection (3) such other sum or sums as may be specified in the order.
- (6) When the Secretary of State proposes to make any regulations or order under this section, he shall, before making the regulations or order, consult the Cinematograph Films Council.
- (7) Any regulations or order under this section shall be made by statutory instrument; but no such regulations or order shall be made unless a draft thereof has been laid before Parliament and approved by a resolution of each House of Parliament.
- (8) In this Act " the levy" means the levy imposed in accordance with regulations made under this section.

3 Collection of levy by Commissioners of Customs and Excise

- (1) The Commissioners of Customs and Excise (in this Act referred to as "the Commissioners ") shall be charged with the duty of collecting the levy.
- (2) The Commissioners shall pay the proceeds of the levy to the Agency after deduction of such sums as are necessary to defray the cost of collection.
- (3) Any sum due from any person in respect of the levy may be recovered by the Commissioners in any court of competent jurisdiction.
- (4) Any expenses incurred by the Commissioners in collecting the levy shall be defrayed out of money provided by Parliament; and any sum retained by the Commissioners out of the proceeds of the levy shall be paid into the Consolidated Fund.

Functions of Agency in relation to proceeds of levy

4 Payments by Agency out of levy to National Film Finance Corporation

- (1) For the purpose of enabling the National Film Finance Corporation to perform their functions, it shall be the duty of the Agency to pay to the Corporation, in respect of each levy period falling wholly or in part before 19th July 1985—
 - (a) the appropriate sum, or
 - (b) 20 per cent, of the amount received by the Agency in respect of that period (or, as the case may be, the part of that period so falling) as proceeds of the levy, whichever is the greater.
- (2) In paragraph (a) of subsection (1) " the appropriate sum " means the sum of £1.5 million or, where part only of the levy period in question falls before the date mentioned in that subsection, the proportion of that sum which corresponds to the proportion of the levy period so falling.
- (3) Sums on account of the amount due from the Agency to the Corporation under subsection (1) in respect of any levy period may be paid from time to time during and after that period in accordance with arrangements agreed between the Secretary of State and the Agency, notwithstanding that the amount so due has not yet been finally ascertained.
- (4) It shall be the duty of the Agency to make any payments in respect of any amount due to the Corporation under subsection (1) in preference to any other payments which they are authorised or required to make in accordance with section 5.
- (5) References in this section to a levy period are references to any period in respect of which a levy is imposed in accordance with regulations made under section 2.

5 Other payments by Agency out of levy

- (1) Subject to section 4(4), the objects of the Agency shall be to make, out of the levy—
 - (a) such payments to, or for the benefit of, makers of British films as are authorised or required to be made by regulations made under section 6 ;
 - (b) with the approval of the Secretary of State, payments to the Children's Film Foundation Limited ;
 - (c) with the approval of the Secretary of State, payments to the British Film Institute towards the cost of making films; and
 - (d) with the approval of the Secretary of State; payments to not more than one relevant body for the time being approved for the purposes of this paragraph by the Secretary of State.
- (2) In paragraph (d) of subsection (1) " relevant body " means a body incorporated on or after 29th May 1970 and having among its objects the carrying on of a school in Great Britain for the training of persons employed or to be employed in the making of films.
- (3) Before giving his approval to a payment under paragraph (b), (c) or (d) of subsection (1), the Secretary of State shall consult the Cinematograph Films Council.

6 Payments by Agency to makers of British films

- (1) The Secretary of State shall provide by regulations for the making by the Agency of such payments to, or for the benefit of, makers of British films as may be determined by or under the regulations.
- (2) Regulations under this section—
 - (a) shall define the classes of British films in respect of which payments may be made ;
 - (b) shall specify the rate of the payments or the method by which they are to be calculated, and may provide for different rates of payment or different methods of calculation in relation to different classes of films ;
 - (c) shall contain provisions requiring the making of claims for payment and the furnishing of information required for the determination of such claims or of any question arising in connection therewith ;
 - (d) shall prescribe the persons to whom the payments are to be made by the Agency, and may contain provisions requiring persons receiving the payments to hold them for specified persons or deal with them in a specified manner;
 - (e) shall provide for the making of provisional payments and the recovery of over-payments ; and
 - (f) may make such incidental or consequential provision as may appear to the Secretary of State to be necessary or expedient for the purposes of the regulations.
- (3) When the Secretary of State proposes to make regulations under this section, he shall, before making the regulations, consult the Cinematograph Films Council.
- (4) Regulations under this section shall be made by statutory instrument; but no such regulations shall be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House of Parliament.

Supplementary

7 Power of Commissioners and their officers to obtain information

- (1) The Commissioners may, for the purpose of enabling them properly to perform their functions under this Act, require an exhibitor, by notice in writing served on him—
 - (a) to furnish to such person as may be specified in the notice such returns or other information as may be so specified;
 - (b) to keep such records as may be so specified ;and, for that purpose, any officer of the Commissioners may—
 - (i) enter, at all reasonable hours, any premises occupied for the purposes of his business by an exhibitor ; and
 - (ii) require him or any person employed by him in connection with his business to produce for examination by the officer such books or other documents relating to the exhibitor's business as the officer may specify.
- (2) If any person—
 - (a) on whom a notice is duly served under subsection (1), or
 - (b) to whom a requisition is duly made under that subsection,

fails to comply with the notice or requisition, he shall, unless he proves that he had reasonable excuse for the failure, be guilty of an offence and liable, on summary conviction, to a fine not exceeding £100.

- (3) If any person in purported compliance with the requirements of a notice under subsection (1) to furnish returns or other information—
- (a) makes a statement, or furnishes a document, which he knows to be false in a material particular, or
 - (b) recklessly makes a statement, or furnishes a document, which is false in a material particular,
- he shall be guilty of an offence and liable—
- (i) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (ii) on conviction on indictment, to a fine.
- (4) An offence under this section may be tried by a court having jurisdiction either in the county or place in which the offence was actually committed or in any county or place in which the alleged offender resides or carries on business.
- (5) For the purposes of section 167 of the Customs and Excise Management Act 1979 (penalties for delivery of false documents or making of false statements to Commissioners or their officers in relation to assigned matters) the collection of the levy shall be deemed not to be an assigned matter.

8 Restriction on disclosure of information furnished under section 7

- (1) No return or other information furnished in compliance with a notice served under section 7(1), nor any information obtained on an examination of books or other documents produced in compliance with a requisition made under that subsection, shall, without the written consent of the person carrying on the business to which the returns or other information or the books or other documents relate, be disclosed otherwise than—
- (a) in the form of a summary of similar returns or information furnished by, or obtained from, a number of persons, being a summary so framed as not to enable particulars relating to any individual business to be ascertained from it; or
 - (b) to the Secretary of State or an officer of his.
- (2) Nothing in subsection (1) shall apply to any disclosure of information made for the purposes of any legal proceedings (whether civil or criminal and including an arbitration) pursuant to this Act, or for the purposes of any report of any such proceedings.
- (3) If any person discloses any information in contravention of subsection (1), he shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.

9 Interpretation

- (1) In this Act—
- " the Agency " means the British Film Fund Agency ;

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" British film " shall be construed in accordance with subsections (2) and (3);

" the Commissioners " means the Commissioners of Customs and Excise;

" exhibitor " means a person carrying on the business of exhibiting films to the public in Great Britain;

" film " includes any record (however made) of a sequence of visual images, which is a record capable of being used as a means of showing that sequence as a moving picture;

" the levy " means the levy imposed in accordance with regulations made under section 2 ;

" maker ", in relation to a film, means, subject to subsection (4), the person by whom the arrangements necessary for the making of the film are undertaken ;

" the statutory maximum ", in relation to a fine on summary conviction, means—

(a) in England and Wales, the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (£1,000 or another sum substituted by order under section 143(1) of that Act);

(b) in Scotland, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (£1,000 or another sum substituted by order under section 289D(1) of that Act).

- (2) The Films Act 1960 and the Films Act 1970 shall, subject to subsection (3), have effect for the purpose of determining whether a film is a British film for the purposes of this Act as they have effect for the purpose of determining whether a film registrable under the Films Act 1960 is registrable as a British film.
- (3) Subsection (2) does not apply in relation to any film registered before 1st January 1961 under Part II of the Cinematograph Films Act 1927 or Part III of the Cinematograph Films Act 1938 ; but any such film in respect of which the conditions imposed by section 25(1) of the latter Act, as in force immediately before that date, are fulfilled is a British film for the purposes of this Act.
- (4) Regulations under section 6 may provide that, for all or any of the purposes of the payments made under that section, an assignee of earnings in Great Britain of a film may, in such cases as may be provided for by the regulations, be treated as the maker of the film.
- (5) References in this Act to the making of a film do not include the production of blank films or of positives intended for exhibition to the public, or the production of negatives by means of any process used for making copies of negatives.

10 Consequential and transitional provisions

- (1) Schedule 2 to the Public Records Act 1958 (enactments prohibiting disclosure of information obtained from the public) shall be amended as follows—
- (a) the entry relating to section 5 of the Cinematograph Films Act 1957 shall be omitted; and
- (b) at the end there shall be added—

“The Film Levy Finance Act 1981 Section 8”

- (2) The enactments mentioned in Schedule 2 are hereby repealed to the extent specified in the third column of that Schedule.
- (3) The Cinematograph Films (Limits of Levy) Order 1979 is hereby revoked.
- (4) Any reference in this Act (whether express or implied) to a thing done or falling to be done under a provision of this Act shall, so far as the context permits, be construed as including, in relation to times, circumstances and purposes in relation to which the corresponding enactment repealed by this Act had effect, a reference to a thing done or falling to be done under that corresponding enactment.
- (5) If at the commencement of this Act there is current a period in respect of which a levy is imposed in accordance with any regulations having effect as if made under section 2, the whole of that period shall be taken into account for the purpose of determining the Agency's liability in respect of that period under section 4(1).
- (6) The period mentioned in section 2(1)(a) shall be a financial year of the Agency, notwithstanding that it is longer than a year.
- (7) If at the commencement of this Act the Magistrates' Courts Act 1980 is not in force, any reference in section 9(1) of this Act to any provision of that Act shall be read as a reference to the corresponding provision of the Criminal Law Act 1977.
- (8) Nothing in this section shall be taken as prejudicing the operation of the provisions of the Interpretation Act 1978 as respects the effect of repeals.

11 Citation, commencement and extent

- (1) This Act may be cited as the Film Levy Finance Act 1981.
- (2) This Act shall come into force at the end of the period of one month beginning with the day on which it is passed.
- (3) This Act does not extend to Northern Ireland.

Status: This is the original version (as it was originally enacted).

SCHEDULES

SCHEDULE 1

Section 1.

THE AGENCY: SUPPLEMENTARY PROVISIONS

Appointments and procedure

- 1 (1) The Secretary of State may make regulations with respect to—
- (a) the appointment of the members of the Agency and their tenure and vacation of office ;
 - (b) the execution of instruments and the mode of entering into contracts by or on behalf of the Agency, and the proof of documents purporting to be executed, issued or signed by the Agency or by a member or officer of the Agency.
- (2) Subject to any regulations under sub-paragraph (1), the Agency shall have power to regulate their own procedure, including the manner in which matters subject to the determination of the Agency are to be determined by or on behalf of them.
- (3) Any regulations under sub-paragraph (1) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- 2 The validity of any proceedings of the Agency shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

Remuneration etc. of members

- 3 The Agency shall pay to the members of the Agency such salaries or other remuneration, and such allowances, as the Secretary of State may determine with the approval of the Minister for the Civil Service.

Remuneration and pensions of officers etc.

- 4 (1) The Agency shall pay to their officers, servants and agents such remuneration as the Agency may determine.
- (2) If the Agency determine in the case of any officers, servants or agents to make provision for the payment on their death or retirement of pensions, gratuities or other like benefits, the Agency shall pay, or provide for the payment of, such pensions, gratuities or other like benefits to them or to others by reference to their service as the Agency may determine.
- (3) Provision for pensions, gratuities or other like benefits under this paragraph may be made either by contributory or by non-contributory arrangements, or partly by the one and partly by the other.

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Incidental powers of the Agency

- 5 The Agency shall have power to do anything incidental to the proper discharge of their functions.

Expenses of Agency

- 6 The expenses incurred by the Agency in the exercise of their functions shall be paid out of the proceeds of the levy imposed in accordance with regulations made under section 2.

Accounts, audit and reports

- 7 (1) The Agency shall—
- (a) keep proper accounts and proper records in relation to the accounts ; and
 - (b) prepare in respect of each financial year of the Agency a statement of accounts in such form as the Secretary of State, with the approval of the Treasury, may direct, being a form conforming with the best commercial standards.
- (2) The accounts of the Agency shall be audited by auditors to be appointed annually by the Secretary of State.
- (3) A person shall not be qualified to be appointed under sub-paragraph (2) unless he is a member of one or more of the following bodies—
- the Institute of Chartered Accountants in England and Wales ;
 - the Institute of Chartered Accountants of Scotland ;
 - the Association of Certified and Corporate Accountants ;
 - the Institute of Chartered Accountants in Ireland ;
 - any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State ;
- but a Scottish firm may be appointed under sub-paragraph (2) if each of the partners is qualified to be so appointed.
- (4) As soon as the accounts of the Agency for any financial year have been audited, the Agency shall send to the Secretary of State a report setting out what has been done in the discharge of their functions during that year.
- (5) Any such report shall include a copy of the statement of accounts for the financial year in question together with a copy of any report made by the auditors on the statement or on the accounts.
- (6) The Secretary of State shall lay a copy of every report sent to him under sub-paragraph (4) before each House of Parliament.

Dissolution of Agency

- 8 (1) If at any time it appears to the Secretary of State that no functions remain to be discharged by the Agency, the Secretary of State may by order provide—
- (a) for the dissolution of the Agency;
 - (b) for the winding up of their affairs ; and

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- (c) for the application, for purposes connected with the British film industry, of any amount by which the assets of the Agency exceed their liabilities.
- (2) Regulations under section 6 (payments by Agency to makers of British films) may include provision for requiring the Agency to set aside, out of the proceeds of the levy imposed in accordance with regulations made under section 2 in respect of the last period in respect of which it is imposed, such sum as appears to the Secretary of State sufficient to defray the expenses of the winding up.
- (3) An order under sub-paragraph (1) may be varied by a subsequent order made by the Secretary of State.
- (4) Any order under this paragraph shall be made by statutory instrument; but no such order shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

SCHEDULE 2

Section 10.

REPEALS

Chapter	Short Title	Extent of Repeal
5 & 6 Eliz. 2. c. 21.	Cinematograph Films Act 1957.	The whole Act.
6 & 7 Eliz. 2. c. 51.	Public Records Act 1958.	In Schedule 2, the entry relating to section 5 of the Cinematograph Films Act 1957.
8 & 9 Eliz. 2. c. 57.	Films Act 1960.	Section 51(5).
1966 c. 48.	Films Act 1966.	Section 7(3) and (6).
1970 c. 26.	Films Act 1970.	Sections 5 to 8. Section 21. Section 22(1)(b).
1972 c. 11.	Superannuation Act 1972.	In Schedule 4, the entry relating to the Agency.
1979 c. 2.	Customs and Excise Management Act 1979.	In Schedule 4, in Part I of the Table at the end of paragraph 12, the entry relating to the Cinematograph Films Act 1957.
1980 c. 41.	Films Act 1980.	Sections 2 and 4. Section 9(1)(b).