



British High-End Television Certification

High-End Television Cultural Test Guidance Notes

Version: March 2017

These guidance notes have been produced by the BFI in conjunction with the Department for Culture, Media and Sport (DCMS) to explain the operation of the Cultural Test for high-end television programmes. This guidance is non-statutory, and has been produced to help prospective applicants understand the requirements for certification as a British high-end television programme under the Corporation Tax Act 2009. It is up to applicants to ensure they meet the requirements of the legislation.

For further details on the Cultural Test or to arrange a meeting to discuss a particular project, please contact the Certification Unit via email: certifications@bfi.org.uk or telephone the Head of Certification, Anna Mansi, on 0207 173 3214.

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Introduction

1. These guidance notes have been produced by the BFI in conjunction with the Department for Culture, Media and Sport (DCMS) to explain the operation of the Cultural Test for high-end television programmes. This guidance is non-statutory, and has been produced to help prospective applicants understand the requirements for certification as a British high-end television programme under Part 15A of the Corporation Tax Act 2009 (as amended) and the Cultural Test (Television Programmes) Regulations 2013 (as amended). It is up to applicants to ensure they meet the requirements of the legislation.
2. The BFI is responsible for administering and assessing applications for British high-end television programme certification and making a recommendation to the Secretary of State for Culture, Media and Sport (DCMS). The Secretary of State is responsible for making the decision on the certification of a programme as a British high-end television programme.
3. A British high-end television certificate can be obtained under:
 - (a) Part 15A of the Corporation Tax Act 2009 (as amended) (“CTA”), which requires that a programme also passes:
 - (b) the Cultural Test (Television Programmes) Regulations 2013 (“the Regulations”), as amended by the Cultural Test (Television Programmes) Amendment Regulations 2015. These also incorporate by reference the UK’s official bi-lateral co-production agreements which allow for international television co-production.
4. These guidelines relate to obtaining certification as a British programme under the CTA 2009 and the Regulations (“the legislation”) as revised in 2015. They are designed to assist with the interpretation and application of the provisions of Part 15A of the CTA 2009. Any reference in this guidance to a piece of legislation or statutory provision is, unless expressly stated to the contrary, a reference to that legislation or provision as amended from time to time.
5. This guidance reflects changes to the Cultural Test made by S.I 1449 and is applicable to programmes that apply for certification after 23 July 2015. High-end television programmes that began shooting or principal photography before 23 July 2015 are able to choose between this and the former version of the Cultural Test. Guidance on the former version of the Cultural Test is available from the BFI on request.
6. Part 15A of the CTA 2009 sets out the application procedure and the requirements to be satisfied for a high-end television programme to be certified as a British high-end television programme. Obtaining a British high-end television programme Certificate is a pre-condition for making claims to HM Revenue & Customs (HMRC) for high-end television tax relief. High-end television programme tax relief is available under the CTA 2009, as introduced by the Finance Act 2013 and amended by the Finance Act 2015, to eligible companies from 1 April 2013.
7. This guidance only relates to the process of applying for certification of a high-end television programme as British. It is not relevant to the other criteria for high-end television tax relief in the Finance Act 2015 or the CTA 2009; those criteria are administered by HMRC and have separate guidance. Please see:
<http://www.hmrc.gov.uk/manuals/tpcmanual/index.htm>

8. Sustainability in television is important, be it encouraging skills and talent development, making television programmes in an environmentally sustainable way or ensuring that works are available to future generations. Programme makers are encouraged to read Annex D for further information about how to help through the Skills Investment Fund, the Voluntary Deposit Scheme and Greening Television and Film.

Applications for British High-End Television Programmes

Who can apply?

9. An application for British high-end television programme certification must be made by the high-end television production company (TPC). The TPC must be within the charge of UK corporation tax. Individuals, partnerships and limited liability partnerships cannot apply for certification.
10. The company must be incorporated before the start of principal photography and be a company that:
 - (a) is responsible: (i) for pre-production, principal photography and post-production of the television programme; and (ii) for delivery of the completed programme;
 - (b) is actively engaged in production planning and decision-making during pre-production, principal photography and post-production; and
 - (c) directly negotiates contracts and pays for rights, goods and services in relation to the programme.
11. There can only be one TPC in relation to a programme. Any television episodes that are commissioned together under the same agreement are treated as a single television programme with one TPC. Where there is more than one company meeting this description then the company most directly engaged in these activities is considered to be the TPC.
12. It is the sole responsibility of the TPC to check that they meet HMRC's criteria for eligibility for tax relief.

How to apply?

13. An online application for a British high-end television programme certificate is available on the BFI website at: <http://www.bfi.org.uk/certification>.
14. At the point of applying, supporting documents should be attached to the online application. Applicants should ensure that the shooting script(s) submitted with the application accurately reflects the final programme as seen on screen. If the shooting script differs from the final programme in any way which may affect the points awarded in Sections A or B then the BFI should be notified. If any supporting document files are too large, they can be emailed to certifications@bfi.org.uk.

A statutory declared hardcopy of the submitted online application should be sent to the following address:

Certification Unit
British Film Institute
21 Stephen Street
London
W1T 1LN

15. Applicants should read these guidance notes when completing an application form. They should also check the legislation to ensure that their high-end television programme meets all the requirements. Incomplete or incorrectly completed applications may lead to delay. The Certification Unit can provide guidance to applicants on any queries about the application process and the requirements under the legislation. We are happy to meet applicants to discuss projects. There is no charge for processing applications or for issuing a certificate.
16. Where information is not confirmed at the time of application, please enter *“to be confirmed”*.
17. Once your online application has been submitted, a hard copy of the completed application form needs to be accompanied by a statutory declaration confirming the truth of the information provided. This should be sent to the BFI at the address above.
18. The BFI will normally issue certificates for high-end television programmes meeting the requirements and certified by the Secretary of State within 28 working days of the receipt of a fully completed application. Applicants are advised that the BFI cannot guarantee that certificates will be issued by a particular date. Delays may occur where application forms are not properly completed or where it is necessary to seek further information. Where applicants are aware of a deadline by which a certificate will be required, they should submit their application in sufficient time and attach details of such deadline. The BFI accepts no liability for any missed deadlines.
19. A copy of the completed programme on DVD is required for our assessment at final certification or an applicant can arrange for the programme to be seen in another format by the BFI. An applicant may also be asked to provide further supporting evidence.
20. Where the BFI believes that an application fails to meet the requirements of the legislation the applicant will be informed that the application may be rejected, and will be offered the opportunity to make representations to the BFI before a final recommendation is made to the Secretary of State for Culture, Media and Sport. No aspect of the approval

of any previous application should be seen as a precedent. Each application is considered on its own merits

Interim certification

21. Applicants can apply for an interim certificate at any point before or during the production of the high-end television programme. An interim certificate is a certificate that the programme, if completed in accordance with the proposals set out in the application, will be a British high-end television programme. Such a certificate will be issued if the Secretary of State is satisfied that the programme passes the Cultural Test based on the proposals set out in the application. The BFI will make a recommendation to the Secretary of State as to whether or not the proposals for the high-end television programme meet the necessary requirements. This enables the applicant to know whether the programme will pass the Cultural Test, based on the information provided. Interim certification is voluntary, however it is required if a claim for tax relief is being made to HMRC at the end of the accounting period, before the high-end television programme is completed.
22. The interim certificate will be valid for three years, beginning on the date specified on such certificate.

Final certification

23. A final British high-end television programme certificate will only be issued after the television programme is completed. Applications for a final certificate should therefore not be submitted prior to completion of a high-end television programme. A high-end television programme is completed when it is first in a form in which it can reasonably be regarded as ready for broadcast to the general public (actual broadcast of the programme is not essential). This will normally be when it is ready to be delivered to a broadcaster even if, exceptionally, it is later sent back to the producer for changes.
24. Final certification is essential before a final claim is made to HMRC on completion of the high-end television programme. Any Corporation Tax relief received under an interim certificate will have to be repaid to HMRC if a final certificate is not obtained.

Letter of comfort

25. Applicants who are not ready to make a full application (information may be incomplete or missing a signed statutory declaration) can submit a draft application. The BFI, if satisfied that the high-end television programme meets the requirements, will issue a letter of comfort that the programme, on the basis of the information provided, meets the requirements of the Cultural Test (if completed in line with the proposal supplied). Note that letters of comfort are issued by the BFI only on the basis of information provided in the draft application and provision of such a letter does not guarantee that a production will be successful in obtaining interim or final certification once an application is made. A decision on an interim or final application will be taken by the Secretary of State based on the contents of that application and the facts prevailing at the time of the application. Additionally, letters of comfort cannot be used to submit a claim to HMRC but may help give reassurance to the applicant on their plans and help with financing. Applicants wishing to apply for a letter of comfort must contact the BFI Certification Unit beforehand.

Information sharing

26. Information provided by the applicant as part of the application process will not normally be disclosed to third parties. However, information may be shared between DCMS, the BFI and HMRC. In particular, the BFI will use information for the purposes of preparing statistical information about the British high-end television industry in its advisory role to DCMS.
27. The Freedom of Information Act 2000 gives members of the public the right to receive information held by the BFI, subject to a number of exemptions. This includes information held in relation to applications received by the BFI. If you choose to apply to the BFI you should be aware that the information you supply, either in whole or in part, may be disclosed under the Act.
28. HMRC may also disclose to BFI and DCMS information received for the purpose of obtaining high-end television programme tax relief. For example, if HMRC consider that information they receive is inconsistent with the basis on which certification was issued or the information provided by the applicant to the BFI or DCMS. If DCMS considers that this information constitutes evidence that a high-end television programme which has previously been certified as British ought not to have been certified; the certificate will be revoked. Such a high-end television programme would no longer be eligible for high-end television programme tax relief.

Crime prevention and detection

29. The BFI works closely with the DCMS and HMRC in the prevention and detection of crime and the apprehension or prosecution of offenders in particular in respect of tax reliefs, VAT and other taxes. For these purposes, when considering your application the BFI will carry out a risk assessment, and, where it believes there may be an attempt to defraud the revenue the BFI may share information about your application with DCMS and HMRC. This might result in revocation of certification, payment of taxes and reliefs being delayed or withheld, the imposition of penalties and, in some cases, criminal prosecution.

Definition of a British High-End Television Programme

The Cultural Test

30. In order to be certified as a British high-end television programme the BFI must be satisfied that the television programme passes the high-end television programme cultural test. The cultural test for a high-end television programme is set out in Part 2 of The Regulations. Annex A of these guidance notes set out the statutory framework of the cultural test and how the DCMS and BFI intend to interpret and operate the test.
31. A high-end television programme will pass the cultural test if it is awarded 18 points out of a possible 35 points and provided that the application passes the Golden Points Rule in circumstances where it applies (the Golden Points Rule is explained in further detail below).
32. An applicant only needs to apply for those points that it needs to pass the Cultural Test. The applicant need only fill in those sections of the application form in which it is applying for points.

33. If the amount of work carried out in respect of any category under Section C (Where work is carried out in the making of the high-end television programme) of the Cultural Test is considered to be insignificant in relation to the total amount of work carried out in making the high-end television programme no points shall be awarded in that category of Section C. This will be handled on a case-by-case basis and is designed to exclude token amounts of work.

Archive footage

34. No more than 10% of the playing time of the programme may include any visual images and/or pictures from a previous programme unless:

- (a) the two programmes have the same TPC or producer named in the application; and
- (b) the previous programme has not already been certified as British (including co-productions);

The Secretary of State has discretion to allow more than 10% archive footage to be included in documentary programmes. This discretion may only be applied if it is considered appropriate for more than 10% of that programme to comprise of archive material in the light of its subject matter.

The 10% rule is invoked if a TPC completes another TPC's or producer's unfinished television programme.

Report by an Auditor for Application for Final Certification

35. The Regulations require that, where an application for final certification seeks to rely on points in Section C and/or Section D, the final application includes a report to the Secretary of State. Where an application does not seek to rely on any points in Section C and/or Section D, no such report is required at any stage.

36. Where a report is required, it must be prepared by a person who is eligible for appointment as a company auditor under section 1212 of the Companies Act 2006. That is, a member of:

The Institute of Chartered Accountants in England and Wales,
The Institute of Chartered Accountants in Scotland,
The Association of Chartered Certified Accountants,
The Association of Authorised Public Accountants, or
The Institute of Chartered Accountants in Ireland.

37. The person preparing the report, in either case, must not be and must not have been at any time while the high-end television programme was being made in partnership with, nor in the employment of the applicant and must not and must not have been at any time while the high-end television programme was being made: (i) an officer or servant of that company, or, if that company is a member of a group of companies, of any other company in that group; or (ii) in partnership with, or in the employment of, any such officer or servant.

38. The person preparing the report must not have a conflict of interest at any time while the high-end television programme was being made with the applicant. This includes (and is not limited to) the following examples:

- Acting as the production accountant;
- Raising or providing finance;
- Fees for client and recurring work must not account for more than 15% of gross practice income;
- Having a mutual business interest with a client or their officers or employees;
- Provision of other services such as significant valuations or acting for the client in adversarial situations.

39. However, that person may undertake the following activities:

- Preparation of statutory Company Accounts;
- Engagement as auditor to the TPC;
- Reporting accountant to the Secretary of State on the cultural test;
- Preparing and signing comfort letters;
- Advice re EC certificates of nationality.

40. The report must verify the following information:

- (a) If the applicant is claiming for points under C1 for principal photography, the total number of days of principal photography and the numbers of days of principal photography carried out in the UK.
- (b) If the applicant is claiming for any points in the rest of section C, the total expenditure on the work in relation to which the applicant is applying for points to be awarded and the expenditure of that work carried out in the UK.
- (c) The nationality or ordinary residence of all persons in section D in relation to whom the applicant is applying for points to be awarded.

41. Item (c): The BFI expects applicants to provide auditors with copies of passports and/or other evidence of nationality and/or evidence of country of ordinary residence. The BFI recommends that, during the making of a High-end television programme, records be kept of the nationalities/places of ordinary residence of all persons for which the applicant will seek points to be awarded under Section D. The BFI is content for auditors to take account of decisions taken by HMRC or relevant foreign tax authorities in order to determine whether a person is ordinarily resident in the UK or another EEA State. It may be possible in some circumstances to obtain written confirmation of residency status from HMRC or the relevant foreign tax authorities. Such evidence should be provided to auditors and a copy may be requested by the BFI.

42. The report should not be dated before the date of the application, as it is a report on the application. The original signed auditor's report on the auditor's own letter-headed paper should be addressed to: Certification Unit, BFI, 21 Stephen Street, London, W1T 1LN.

43. The report is not required for applications for interim certification. See Annex B – Report By an Auditor.

Statutory Declaration

44. The Regulations require the applicant to make a statutory declaration as to the truth of the particulars given in the application. (The independent auditor's report does not need to be covered by a statutory declaration).

45. This statutory declaration may be made in the presence of a practising solicitor, general notary, justice of the peace or other officer authorised by law to administer a statutory declaration in the UK under the Statutory Declaration Act 1835. He/she should be

independent of the production and of anyone with a financial or similar interest in the high-end television programme including any law firm involved in the making of the high-end television programme. It is an offence to knowingly and willingly to make a materially false statement in a statutory declaration.

46. A person making a false statutory declaration may be prosecuted and is liable on conviction to imprisonment for a maximum of two years (where conviction follows a trial on indictment), or a fine or both.
47. If the applicant seeks to make the statutory declaration whilst outside the UK, only the British Consul, British Embassy and the British High Commission are authorised to administer a statutory declaration for this purpose.
48. Where any additional sheets are submitted as an addendum to the application:
 - (a) mention of the addendum should be made in the appropriate place on the application form;
 - (b) each page of any addendum should be signed by the same person making the application, and signed and stamped by the person (e.g. solicitor) administering the statutory declaration to show that the addendum formed part of the application when the statutory declaration was made.
49. Once the statutory declaration has been made the application form cannot be altered without making another statutory declaration to cover the amendments. Where an applicant is concerned that the form has been completed incorrectly, he should seek independent legal advice or submit the form to the British Film Institute in draft before the statutory declaration is made. Only the application form needs to be statutory declared, supporting information such as the long format budget, chain of title, shooting script, synopsis and treatment do not need to be signed or stamped.
50. A statutory declaration is required for both interim and final certification.
51. DCMS will refuse or withdraw the certificate where false or misleading information is supplied as part of an application, and will cooperate with HMRC, the Crown Prosecution Service and the police on prosecutions, as appropriate.

Annex A: Cultural Test for High-End Television Programmes

The Cultural Test for high-end television programmes is set out in Part 2 of The Cultural Test (Television Programmes) Regulations 2013 (as amended).

A high-end television programme is defined to mean a drama (which includes comedy) or documentary production that is intended for broadcast and has expenditure per hour of slot length of not less than £1 million. The slot length in relation to the high-end television programme must also be greater than 30 minutes. Slot length in relation to a television programme means the period of time which the programme is commissioned to fill.

A programme is a drama if it:

- (a) consists wholly or mainly of a depiction of events;
- (b) the events are depicted (wholly or mainly) by one or more persons performing, and
- (c) the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, acting, singing or dancing, involves the playing of a role.

The definition of high-end television includes programmes which are transmitted via the internet.

A documentary is not defined in the legislation but normally it would be interpreted to mean a factual or realistic programme based on real events, places or circumstances and intended primarily to record or inform.

Any high-end television programmes that are commissioned together under the same agreement (e.g. a drama or documentary series) are treated as a single television programme for applying the cultural test. Such a television series is to be submitted for certification as a whole.

A drama or documentary that includes animation is to be treated as animation if the core expenditure on the completed animation constitutes at least 51% of the total core expenditure on the completed programme. As an animation programme, the cultural test for British animation programme certification would apply and this is covered in separate guidance notes.

The Golden Points Rule

The “Golden Points Rule” applies if a high-end television programme scores all 19 of the points available in sections A4 (language), C (where work is carried out), and D (personnel). However, the Golden Points Rule means the programme cannot pass the Cultural Test unless it scores a minimum amount in certain other parts of the test. To pass, it must have scored two or more points in section A1 (setting) and/or two or more points in section A2 (characters) and/or 4 points in section A3 (story). See Annex C for a flowchart explanation of the Golden Points Rule.

Section A – Cultural Content

A1 Proportion of the high-end television programme set in the UK, another EEA state Up to 4 points

- 4 points will be awarded if at least 75% of the television programme is set in the United Kingdom or another EEA state.
- 3 points will be awarded if at least 66% of the television programme is set in the United Kingdom or another EEA state.
- 2 points will be awarded if at least 50% of the television programme is set in the United Kingdom or another EEA state
- 1 point will be awarded if at least 25% of the television programme is set in the United Kingdom or another EEA state.

A high-end television programme is set in the UK or another EEA state if the story takes place in the UK or another EEA state. It does not matter where the television programme is actually shot. For the purpose of the test, a television programme is set in an EEA state if it is set in any location which is now part of the UK or another EEA state.

A high-end television programme that is set in a fictionalised version of the UK or an EEA state will be considered to be set in the EEA. However, a programme set in a purely fictional setting will not be treated as set in the UK or an EEA state.

The proportion will be measured by counting the number of pages in the script which are set in the UK or an EEA state. One page of script is equal to one minute of footage. At the final application stage, this will be measured by assessing the on-screen content in minutes.

A2 Lead characters are British/EEA citizens or residents Up to 4 points

- 4 points to be awarded if two or more of the three lead characters depicted are British or EEA citizens or residents. Or if there are only one or two characters and all are British or EEA citizens or residents.
- 2 points if one of the two lead characters is British or an EEA citizen or resident, or if only one of three lead characters is British or an EEA citizen or resident and that character is the first or second lead; and
- 1 point if one of the three lead characters is British or an EEA citizen or resident and that character is the third lead.

A character is a British or another EEA state character if he or she is a: (a) a British citizen or a citizen of another EEA state; or (b) a person resident in the UK or another EEA state.

A character who was a subject of a state or kingdom prior to that territory becoming part of the United Kingdom or another EEA state will be considered to be an EEA state character for the purposes of the test. An EEA state character also includes any character who, at the time the television programme is set, could reasonably have been a British subject in a colonial territory.

Where it is not immediately apparent from the television programme, applicants will be asked to explain why the character should be regarded as a British or another EEA state character.

It is not enough that a character is technically an EEA state character (e.g. via dual nationality or other artifice) there must be other evidence in the television programme that the character can actually be linked to the state in question, e.g. backstory, accent, what is seen and heard on screen etc.

The lead characters/participants will be determined by taking into account a variety of factors which may include the centrality or prominence in the story or the number of script pages in which the character/participant is included.

For a documentary only: this may include the presenter, narrator, the subject or other contributors on screen.

A3 Television programme based on British or EEA subject matter or underlying material

4 points

Four points will be awarded if the television programme depicts a British story, or a story which relates to another EEA state. A television programme depicts a British or EEA story: (a) if the subject matter of the television programme is British or relates to another EEA state; or (b) if the underlying material on which the television programme is based is by a British or EEA citizen or resident.

In relation to (a) the subject matter is British or relates to another EEA state, for example, if the television programme is about a British or EEA state non-fictional event even though it is not set in the UK or another EEA state; or the television programme is about a British or EEA state historical or fictional character. Applicants will be asked to make a case for how their television programme depicts a British story or a story which relates to another EEA state.

In relation to (b) the underlying material (e.g. book, story, film, game, television or animation programme, an original screenplay, script, or article) is written by a British/EEA Citizen or resident.

A4 Original dialogue recorded mainly in English language or a language within the EEA

6 points

6 points will be awarded if at least 75% of the original dialogue is recorded in English or an EEA state language or in an officially recognised regional or minority language of an EEA state.

4 points will be awarded if at least 66% of the original dialogue is recorded in English or an EEA state language or in an officially recognised regional or minority language of an EEA state.

2 points will be awarded if at least 50% of the original dialogue is recorded in English or an EEA state language or in an officially recognised regional or minority language of an EEA state.

1 point will be awarded if at least 25% of the original dialogue is recorded in English or an EEA state language or in an officially recognised regional or minority language of an EEA state.

The UK has seven officially recognised indigenous minority languages (Scottish-Gaelic, Welsh, Irish, Scots, Ulster Scots, Cornish and British Sign Language). All such languages are eligible to receive points under section A4 of the test. This list may be updated further.

It is the responsibility of the programme makers to provide evidence in their applications as necessary that any other regional or minority language used in their work is officially recognised in another EEA state.

Original dialogue will be measured by the number of words spoken against the total number of words of dialogue in the script. Dialogue can include narration but not stage directions.

Total for Section A - 18 points

Section B – Creativity, Heritage and Diversity

Television plays an important role in contributing to the promotion, development and enhancement of British creativity, British heritage and diversity. Section B seeks to identify those television programmes which make a contribution in these areas in addition to the content assessed in Section A. Section B will be assessed under three key categories: British Creativity, British Heritage and Diversity.

British Creativity

Television is able to communicate both the culture of the originating country as well as an individual's point of view. The impact of a television programme and its success in representing British culture can in large part be defined by its creative approach. The success of a television programme in reaching out to particular groups or sections of society can be fundamentally influenced by the programme maker's approach, for example, the use of new techniques and formats or original and different approaches to programme-making. The ability of the programme maker to tailor his/her approach to their target audience can demonstrate British creativity.

Points will be awarded based on the following determinants:

- a. Subject: does the television programme's portrayal of British culture come as a result of a programme maker's creative approach? i.e. The content is not necessarily dictated by a pre-existing work but is a creative, new interpretation of British culture;
- b. Other factors relating to creativity which can be shown to have an impact on the final content.

British Heritage

Britain's heritage is an important determinant of the British national identity. It is therefore important to preserve British heritage on screen for audiences of the present and the future. British heritage shapes a common understanding of representation of British people and their contemporary and historical culture. Points will be awarded for a representation of British heritage - for example, a television programme which tells the story of a British historical event, but which might not necessarily be set in the UK. The issues handled by these television programmes are an important part of British heritage and television programmes can play an important role in ensuring they remain relevant to modern society – for instance by reaching a new younger audience.

The portrayal of heritage on-screen is a key determinant in this section. Heritage also has the potential to be a catalyst for creativity in allowing unique interpretations of stories of British cultural heritage. Heritage also has the potential to be a catalyst for creativity in allowing unique interpretations of stories of British cultural heritage. A cultural test which values heritage and which values British cultural perspectives, modern and ancient history and the interpretation of the past and the future is therefore a more accurate arbiter of culturally British television programme creation.

Points will be awarded based on the following determinants:

- a. Subject: does the television programme contribute to or reflect British heritage? e.g. this could be an historical or imagined event whether or not set in the UK;
- b. Other factors relating to British heritage which can be shown to have an impact on the final content.

Diversity

When we refer to 'diversity', we are recognising and attaching value to those aspects or dimensions of self and/or community identity relating to gender, ethnicity or national origins, religion or belief, age, sexuality, disability, social and economic background.

An approach which values diversity therefore values and encourages differences in attitudes, cultural perspective, beliefs, ethnic, ability, skills, knowledge and life experiences of people of diverse backgrounds living in Britain.

Diversity also has the potential to be a catalyst for creativity and for stimulating cultural value by enhancing the range of stories to be told, the way they are told on screen, and levels of access and engagement.

Diversity can directly influence the content and tone of a television programme; its sensibility and authority. Much has, for example, been written on the issue of the lack of women as directors, and the differing perspectives and sensibilities that women as directors bring to productions.

Points will be awarded based on the following determinants of diversity:

- a. Subject/Portrayal: exploring contemporary social and cultural issues of disability, ethnic diversity and social exclusion on screen; promoting and increasing visual, on-screen diversity;
- b. Other cultural diversity factors which can be shown to have an impact on the final content.

Points for each category will be awarded as follows:

1 point will be awarded for a significant representation of British creativity, British heritage or diversity.

2 points will be awarded for an outstanding representation of British creativity, British heritage or diversity.

A maximum of four points can be awarded in the whole section.

Section C - Where Work Is Carried Out

Except for principal photography, the amount of work on a particular programme-making activity in this section will be calculated by the amount of expenditure on that work. In order to calculate the proportion of the expenditure on a programme-making activity that is carried out inside the UK it will be necessary to analyse production costs on the basis of where a person works on a programme, where goods are supplied from and where the services are performed.

Where expenditure on a programme-making activity is split between activity inside and outside the UK then the apportionment of expenditure must be made on a fair and reasonable basis. For example, a visual effects supervisor is hired (i.e. as part of expenditure on visual effects), and for a third of his time on the television programme works inside the UK, and two-thirds of his time outside the UK. One-third of his labour costs should be attributed to work inside the UK and two-thirds to work outside the UK.

Any living expenses of persons directly engaged in work on a high-end television programme and incurred for the purposes of production (e.g. staying in a hotel in the UK) should be counted towards activity inside the UK; staying in a hotel abroad should be counted towards activity outside the UK. Any travel/transport costs will be considered as expenditure carried out in the UK if the travel began in the UK.

For principal photography, the amount of work carried out in the UK shall be determined by reference to the number of days spent on the work.

C1 Principal photography/visual effects/special effects

4 points

Section C1 is broken down into three categories (a), (b) and (c) where 2 points may be awarded where applicable in each category. The maximum points available are 4.

(a) Two points will be awarded if at least 50% of the work on principal photography or special effects is carried out in the UK:

Principal Photography (for a drama): Principal photography in the UK includes principal photography at any studio, location, warehouse or other place where filming takes place. It does not include any shooting done by second or other units. It will be measured by reference to the number of days spent of the work as set out in the shooting schedule.

Special Effects: Special effects is defined to mean artificial techniques or processes, which are not visual effects, used to create an illusion in a film. Special effects include, but are not limited to: Miniatures, Animatronics, Prosthetics, Atmospheric, Mechanical Effects, Flying Effects, Pyrotechnics, Animation and Puppets, Special Costumes, Action Props

(b) Two points will be awarded if at least 50% of the VFX work takes place in the UK.

Visual Effects: Visual effects is defined to mean the digital alteration of a programme's images. This will include the following activities carried out as part of Asset Build, Shots, and Facility Overhead, but not those activities relating to principal photography: Pre-visualisation, Concept Design, Computer Generated Images (CGI), Character/Creature Animation, Colour Correction, 2D Compositing, 3D Animation, 3D Modelling, Software Development, Digital Intermediate, Stereo Conversion, Virtual Sets/Studio, Motion Capture, Digital Matte Painting,

Lighting and Rendering, Images, as well as the supervision, support and management of the artists and individuals engaged in this activity.

(c) An extra 2 points will be awarded if at least 80% of either principal photography, SFX or VFX takes place in the UK.

In addition:

For documentaries only: Work on research and development (R&D) will also be eligible in addition to principal photography, visual effects and special effects work. Two points will be awarded if at least 50% of the work on these activities are carried out in the UK and a further 2 points if 80% of the work on any of these activities takes place in the UK.

C2 Music recording/audio post production/picture post production 1 point

One point will be awarded if at least 50% of the work on any one of the following activities is carried out in the UK.

- (a) **Performing and recording the music score created for the television programme:** This will not include source music. The performing and recording of the following qualify: a new piece of music composed for the television programme; or a new arrangement/score, of an existing piece of music, created specifically for the television programme.
- (b) **Audio Post Production**
- (c) **Picture Post Production:** For the purposes of this test this includes: Auto Picture Editing, Auto Picture Conform, Picture Grade, Online Picture Edit, Digital Intermediate, Telecine, Film Scanning/Recording/Master Grading, Restoration, Negative Processing, Rushes Prints, Video rushes from the processed negative, copies of the HD camera original onto other video formats for editing, Negative logging, Negative Cutting or Scanning, Shooting Optical Sounds Negative, Creation of a digital internegative, Answer Print from digital internegative or from the original negative, Interpositive/Internegative, Check Print, manufacture of the video deliverables (TV masters) from either the digital house or the telecine house.

Total for Section C – 5 points

Section D – Personnel Involved In the Making of the Programme

For the purposes of this test a qualifying person means a citizen or a person ordinarily resident in:

- i) the UK (including citizens of the Isle of Man or Channel Islands),
- ii) any other EEA state (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden)

To qualify for a point, a person must be a national of one of these countries at the time the film was being made. If a person holds dual nationality he/she may choose either nationality for the purpose of the test.

Ordinary residence has the following characteristics: it is a regular habitual mode of life in a particular place; it must be lawful; it must have been adopted voluntarily; it must be for a settled purpose; its continuity has persisted despite temporary absences; and it may be of long or short duration.

Possession of a contract for employment on the television programme does not in itself mean that someone is ordinarily resident in a particular country. Nor does a contract's terms about length of employment. Nor does paying someone throughout their contract where the person has received a contract for work. Nor does possession of a right of abode where abode may or may not be taken up from time to time. Nor does ownership of a house in the UK. Nor does marriage to a spouse.

Television series

For the purposes of Section D, any television episodes that are commissioned together under the same agreement (e.g. a drama or documentary series) are treated as a single television programme in terms of certification under the Cultural Test.

Where, for a series, an applicant reaches an initial conclusion that more than three lead practitioners (e.g. lead directors) have contributed equally to that series, then applicants will be to explain how the applicant has reached that conclusion. Normally it would be expected that there would be varying levels of reasonable factors (e.g. credits, time, cost) that would result in not more than three lead practitioners. The BFI can, in such circumstances, advise on a case-by-case basis whether the methodology leading to the award of the point is reasonable in relation to the purpose of the test.

D1 Director

1 point

One point will be awarded if at least one of the directors (or, if there are more than three, one of the three lead Directors) is a qualifying person.

Where there are more than three directors, applicants will be asked to make a case for who is the lead director, except where there are joint and equal directors in which case an applicant may choose either to be the lead.

The director will be determined by taking into account factors including: the person who takes the credit in the television programme, the creative input and time spent working on the television programme.

D2 Scriptwriter

1 point

One point will be awarded if at least one of the scriptwriters (or, if there are more than three, one of the three lead scriptwriters) is a qualifying person.

Applicants will be asked to make a case for who are the lead scriptwriters.

A scriptwriter will be determined by taking into account factors including: the person who takes the credit in the television programme, creative input on the script and time spent working on the script.

D3 Producer

1 point

One point will be awarded if at least one of the producers (or, if there are more than three, one of the three lead producers) is a qualifying person.

Applicants will be asked to make a case for who are the lead producers.

A producer means an individual with decision-making authority who plays an active role throughout the pre-production and production of a television programme and assumes responsibility for the physical process of production and carrying through practical and financial arrangements for the making of the television programme.

D4 Composer

1 point

One point will be awarded if the composer is a qualifying person (or, if there are more than three, one of the three lead composers) is a qualifying person.

Where there are more than three composers, applicants will be asked to make a case for who is the lead composer, except where there are joint and equal composers in which case an applicant may choose either to be the lead.

The composer will be determined by taking into account factors including: the person who takes the credit in the television programme, the creative input on the original music score (not including source music) and time spent working on the score.

D5 Lead Actors/Participants

1 point

One point will be awarded if at least one of the actors, or participant in a documentary, (or, if there are more than three, one of the three lead actors/participants) is a qualifying person.

A participant in a documentary is defined to mean the presenter, narrator, subject or other person who participates and appears in a documentary.

Applicants will be asked to make a case for who are the lead actors/participants.

The lead actors will be determined by taking into account factors including: the number of days worked in front of the camera and the centrality of the actor's role in the television programme.

D6 Majority of cast

1 point

One point will be awarded if at least 50% of the cast, or participants in a documentary, are qualifying persons.

'Cast' is defined to mean all the actors and performers (including stunt men and women) but not extras that appear in the programme.

For the purposes of this test 'extras' means: a person who appears in a television programme where a non-specific, non-speaking character is required, usually as part of a crowd or in the background of a scene.

D7 Key Staff

1 point

One point will be awarded if at least one of the heads of department is a qualifying person.

The heads of department are:

For programmes other than documentaries: the lead cinematographer, the lead production designer, the lead costume designer, the lead editor, the lead sound designer, the lead visual effects supervisor, and the lead hair and makeup supervisor. The head of the department is the person with responsibility for that department

For documentaries only: the heads of department are the lead cameraman, the lead sound recordist, the lead editor and the lead researcher.

D8 Majority of Crew

1 point

One point will be awarded if at least 50% of the production crew are qualifying persons. Production crew means all the people directly involved in the production of a television programme that do not appear in the television programme. That is, people involved directly in the production and post-production of the television programme, but not people involved in providing ancillary services e.g. caterers. Whether a person is in the production crew will be determined by taking into account factors including if he or she is contracted by the production company to perform services on the television programme; and if he or she have industry-standard on-screen credits and are recognised in the PACT/BECTU Freelance Rate Card.

Total for Section D - 8 points

Total for Sections A, B, C, D – 35 points.

Annex B: Report By an Auditor

REPORT BY AN AUDITOR TO THE SECRETARY OF STATE FOR CULTURE, MEDIA AND SPORT FOR A CULTURAL TEST APPLICATION FOR FINAL CERTIFICATION

This report is prepared for the purposes of the Cultural Test (Television Programmes) Regulations 2015 (“the Regulations”) and accompanies the application for Final Certification of the High-end television programme “[project name]” as a British High-end Television Programme under (a) Part 15A of the Corporation Taxes Act 2009 and the Television Programmes (Cultural Test) Regulations 2013 (as amended).

I/We confirm that this report has been prepared by a person who is eligible for appointment as a company auditor under section 1212 of the Companies Act 2006 and that who is not and was not at any time while the high-end programme was being made: in partnership with the applicant or any officer or servant of the applicant; in the employment of the applicant or any officer or servant of the applicant; or an officer or servant of the applicant or, if the applicant is a member of a group of companies, of any other company in that group.

The applicant is responsible for the preparation of the application. It is my/our responsibility to independently verify the particulars in the application set out below and to independently state our opinion about whether any point should be awarded under Part 3 Regulation 9 of the Regulations based on my/our examination and to report those matters to the Secretary of State.

I/We have examined the application dated [XX], together with the supporting documentation and the books of the applicant so far as they relate to the making of this high-end television programme. My/our assessment includes examination, on a test basis, of evidence relevant to the amounts and information in the application and supporting documents. I/We planned and prepared this report so as to obtain all the information and explanations which I/we consider necessary in order to provide us with sufficient evidence to give reasonable assurance that the information contained in the application and supporting documents are free from material misstatement, whether caused by fraud or other irregularity or error.

On the basis of such examination, I/we verify:

- (a) The total number of days of principal photography are [X] and the number of days of principal photography carried out in the United Kingdom are [X].
- (b) The total expenditure of the work on [area of work] is £[XX] and the expenditure of such work carried out in the United Kingdom is £[XX].

[Provide a separate statement in the form of paragraph (b) above for each element of expenditure, for example visual effects / special effects / research and development / music recording / audio post production / picture post production as applicable]

- (c) The nationality or ordinary residence of the [D1-D8 as applicable] is [].

[Repeat as necessary]

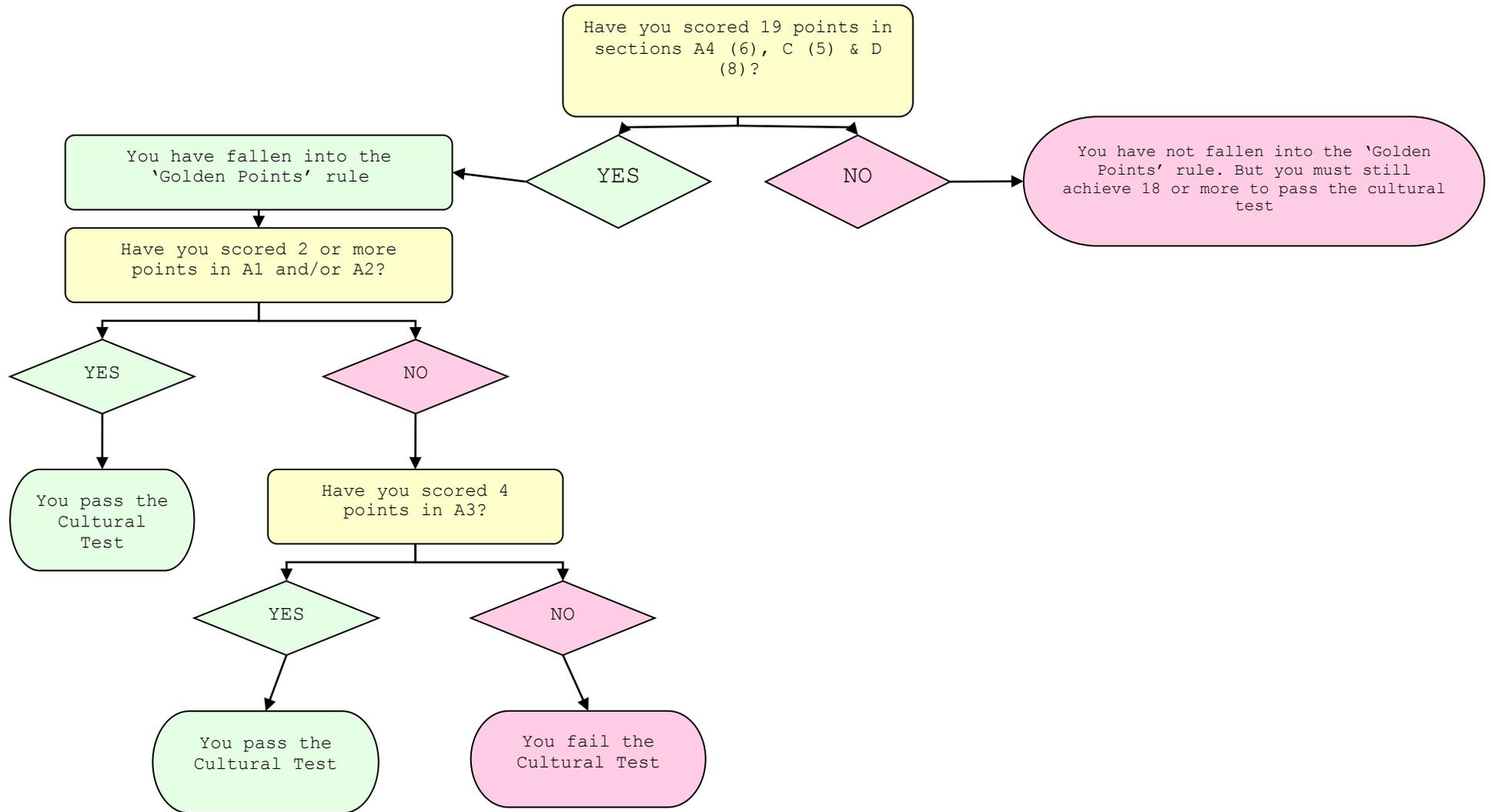
On the basis of such examination, it is my/our opinion that [XX] points should be awarded under Part 3 Regulation 9 of the Regulations.

Signed [name of individual]

On behalf of [name of firm]

Date

Annex C: Golden Points Rule Flowchart



Annex D: Other Information for Programme Makers

Skills Investment Fund

The Creative Skillset Skills Investment Fund (SIF) channels industry and government funds to support training and skills development for people working in the film, high-end TV, animation, video games and VFX industries.

In response to industry demand, film, high-end TV and animation contribute to the SIF via a voluntary production levy - a contribution of 0.5% of UK core expenditure (currently capped at £39,500).

Investment raised through the Skills Investment Fund will be spent on training at all levels against the priorities identified and agreed by the industry. Companies that contribute to the Skills Investment Fund, through the production levy, will have access to funding and training opportunities through subsidised short courses, a new part-funded trainee scheme and a Challenge Fund.

For more information on how to calculate the SIF contribution, how to access trainees or the types of subsidised training available, please contact Fergal McBride at Creative Skillset on fergalm@creativeskillset.org or 020 7713 9862.

Voluntary Deposit

The UK is committed to supporting its national and regional archives, in order to protect, preserve and make moving image material accessible to all. Further information is available at this link:

<http://www.bfi.org.uk/about-bfi/policy-strategy/bfi-national-archive-collections-policy>
<http://www.bfi.org.uk/about-bfi/policy-strategy/bfi-national-archive-collections-policy>
<http://www.bfi.org.uk/about-bfi/policy-strategy/bfi-national-archive-collections-policy>

Producers are encouraged to deposit one or more of the following with the BFI:

- A delivery print on 35mm format;
- A digi-beta or Digital video copy;
- One copy of the post-production script;
- One full set of stills where available;
- Two release posters;
- One set of publicity materials.

It is not compulsory for producers to deposit material at the BFI, and compliance (or non compliance) will not affect the certification process.

Greening Television & Film

As the lead body for film in the UK the BFI embraces best practice and takes seriously its responsibility to co-ordinate a UK-wide sustainability strategy for all parts of the film and television sectors in the UK. This includes adopting BS 8909, the new British Standard for sustainability that was announced in 2011, and actively encourage other film organisations to do the same. A coordinated approach to sustainability using BS 8909, alongside recommended carbon calculators such as Albert, reduce carbon outputs, lead to greater efficiencies and long-term cost savings so that budgets can be used to better support the film and television industries. We encourage all film and programme makers to visit the Greening Film website www.greeningfilm.com to see what ways their projects might benefit from a sustainable approach to filmmaking.