

Chairperson, members of the Committee

Thank you for the opportunity to address the Committee on S481 of the Taxes Consolidation Act 1997 as amended.

My name is John Arkins, I have worked in the Set build section of film production, both as a Stagehand and Supervising Stagehand since 1994. Since 1998 I worked with the largest Group of film producer companies in Ireland.

Central to my employment is S481 of the Taxes Consolidation Act 1997, in fact employment and training is one of only two key fundamental objectives of the Act, the current film regulations are Statutory Instrument 119 of 2019.

The objective of S481, as amended, are set out in Part 2 of the Regulations as follows:

(3) A certificate shall not be issued by the Minister under section 481(2)(a) of the Act of 1997 in relation to a film unless — (a) the film is eligible for certification under Part 3, and (b) the Minister is satisfied that the film will either or both - (i) be of importance to the promotion, development and enhancement of the national culture including, where applicable, the Irish language (referred to as ‘the Culture test’), and (ii) act as an effective stimulus to film making in the State through, among other things, the provision of quality employment, and training and skills development opportunities (referred to as ‘the Industry development test).

The objectives as set out at (i) are not being met as we understand it despite the recent success of Irish language films.

And the objectives as set out at (ii) are not, according to the employers and their representative body, capable of being met.

It should be noted that film workers were fully aware that the objectives at (ii) of the Regulations were not being met.

However, the fact that these objectives cannot be met only came to my attention by way of statements submitted to both the WRC and Labour Court of which I have direct knowledge.

Both the employer and the employer’s representative body Screen Producers Ireland submitted to those Statutory Agencies that S481 prevents the production sector having an ongoing employment relationship with the Crews, this they attributed to both the structure of S481 and the uncertainty associated with the production sector globally, they provided no rationale for this contention.

If the facts, as submitted by the employers and their representative body are correct, then it begs the question as to why they and others consistently and aggressively lobby for its retention in its current form.

Despite the forerunners of S481 going back to 1984 the industry, given the statements referred to above, appears not to have benefitted to any great extent from the legislation.

Until 2015 S481 was a tax relief available to investors who had a corporation tax liability, it is now directly payable to film producer companies whether or not they have a corporation tax liability.

Clearly, S481 has become a handout in my opinion, and a significant one at that, 32% of the budget up to a maximum of €70 million euro, plus in many cases a 5% regional uplift.

Given the employers assertions and given that there are no companies of scale, no employees and no owned infrastructure, despite almost €4 billion of taxpayer investment to-date, it is clear that there are fundamental structural reforms relating to the Relief which need to be debated and implemented.

The facts are that film producer companies are the only beneficiaries of S481, they are never directly heard, a number of outlier organisations run interference for them which serves to muddy the waters and stifle debate; Given the requirements of the legislation, that the relief is predicated on meeting both the Culture Test and the Industry Development Test, the only relevant voices are those of the producer company executives and the taxpayer.

If those tests are not being met or are, for some inexplicable reason, incapable of being met by the beneficiary then the Minister is clearly not doing her job and there are fundamental governance issues to be addressed.

One way to address the issues is by amending the order in which the relief is paid, currently 90% of S481 is payable up front on Certification of the film by the Minister.

A system fairer to the taxpayer and one which would afford significant protections for the workers is that the 10% be paid up-front, it should be noted at this point that S481 was not designed to be either an operating subsidy or an investment buy in for the producers. The remaining 90% would then be payable after 6 months when compliance has been determined by the relevant Government Departments, compliance cannot be determined in advance, and, although I am no expert, it would appear to me that corporation tax is a cumulative liability which cannot be determined in advance either.

What we are suggesting is not in any way an unreasonable ask, therefore we would urge TDs of all parties to take the opportunity presented by the extension of S481 and the impending amending Film Regulations to ensure that a fairer and more transparent system of stimulating film production is brought about.

Thank you.