

# REGULATION

## on Temporary Reimbursements for Film Production in Iceland

### *Article 1*

It is permissible to reimburse, from the Treasury, 25% of production costs incurred during production of films or television programming in Iceland and, as applicable, in other European Economic Area member countries, cf. Articles 2 and 5 of the Act on Temporary Reimbursements for Film Production in Iceland, no. 43/1999, with subsequent amendments.

The calculation of the reimbursement is based on the total cost of producing films or television programmes, irrespective of which phase of the production generates that cost.

### *Article 2*

Applications for reimbursement of production costs for film projects shall be sent to the Committee on Reimbursement for Film Production before production begins in Iceland. The Committee, which is appointed pursuant to Article 3 of Act no. 43/1999, reviews submitted applications, which shall take the form prescribed in instructions from the Committee. The application shall include information on the operations and balance sheet of the company applying for reimbursement.

If the Committee considers the project to satisfy the set conditions, it provides the applicant with a pledge of reimbursement. The issued pledge covers all phases of the project for which reimbursement is requested, as described in the application documents, and the costs incurred in connection with them, based on a cost estimate submitted on the application date.

The pledge of reimbursement issued by the Committee shall draw attention to the authorisation, pursuant to Article 8, to defer reimbursement.

### *Article 3*

In order to qualify for reimbursement pursuant to this Regulation, the production concerned must be conducive to advancing Icelandic culture, promoting Icelandic history or natural environment, or enhancing the experience, expertise, and artistic ambitions of the parties involved.

The assessment of whether the conditions laid down in Paragraph 1 have been satisfied shall be based on the project assessment below, which is in two sections, the cultural section and the production section.

In the cultural section, points are given for the following items, with each giving two (2) points if it is satisfied and one (1) point if it is satisfied in part.

- a. The story line, topic, or central theme of the film or television programme is based on events that are part of Icelandic or European culture, history, national heritage, or religion.
- b. The production is based on a historical character or an individual from Icelandic or European culture, history, society, or religion.

- c. The story line is related to an Icelandic or European location or local conditions, environment, or cultural history.
- d. The story line, manuscript, or topic is based on a literary work or other work of art or music of cultural importance.
- e. The story line, manuscript, or central theme focuses on current events that make reference to Icelandic or European culture, society, or power structure and politics.
- f. The production reflects important Icelandic or European values such as social and cultural diversity, social solidarity, human rights, equal rights, tolerance, protection of minorities and respect for other cultures, family values, environmental protection, respect for nature, and sustainable use of natural resources. The production focuses on Icelandic or European customs and habits or culture and self-image.
- g. The project focuses on Icelandic or European customs and habits or culture and self-image.
- h. The story line, manuscript, or topic is based on contemporary or historical events of importance to Icelandic or European society.

In the production portion, points are given for the following items, with the maximum number of points for each item indicated in parentheses. The number of points given is determined by how well the production satisfies the criteria in question.

- i. The production contributes to the type of cinematic art to which it belongs (maximum 3 points).
- j. The production enhances the skills and ability of the filmmakers involved in the project to produce works of cultural value (maximum 4 points).
- k. Those who work on the production are citizens of Iceland or another EEA state. Half a point is given for each of the following sub-items, or a maximum of three (3) points for the item as a whole.
  - i. Director.
  - ii. Producer/Co-producer.
  - iii. Cinematographer (director of photography, DoP).
  - iv. Assistant cinematographer.
  - v. Scriptwriter.
  - vi. Lead actor.
  - vii. Supporting actor.
  - viii. Composer.
  - ix. Set designer.
  - x. Costume designer.
  - xi. Film editor.
  - xii. Make-up artist.
  - xiii. Production supervisor.

- xiv. Post-production supervisor (analogue or digital).
  
- l. The final issuance of the production is in the national language of an EEA state. (1 point is given for 10% of the language of the production, 2 points for 25%, 3 points for 50%, and 4 points for 75%).
- m. At least 51% of the filming crew (excluding those mentioned in Item k) are citizens of an EEA state (maximum 4 points).
- n. Filming takes place in Iceland (maximum 4 points).
- o. The production purchases services from Icelandic providers during filming in Iceland (maximum 4 points).
- p. Post-production (including post-production of sound and computer graphics, digital production, sound production, etc.) takes place in Iceland or an EEA state (maximum 4 points).

Points for Items (n), (o), and (p) are given based on the extent to which the production satisfies each condition. The Committee assesses the extent to which filming, services purchases, and post-production take place in Iceland and whether the project is conducive to increased expertise and experience within the film industry.

The production shall receive at least 4 points from the cultural section and 23 points from both sections combined.

#### *Article 4*

When an assessment is made of whether a portion of the production costs of a film or television programme shall be reimbursed, the following conditions shall be satisfied, in addition to those laid down in Article 3:

- a. A company is operated in connection with the production in Iceland, an Icelandic branch or agency of a company registered in an EEA member state.
- b. Information on the main parties to the production of the film or television programme has been made available.
- c. Information on domestic parties and their share in the production of the film or television programme has been made available.
- d. An itemised estimate of production costs and financing, together with a confirmation from financing agents, has been made available.
- e. A report from the applicant, stating that the production is consistent with the purpose of the Act, has been made available.
- f. Information on the subject of the proposed film or television project, including a script, a short summary of the story line, and information on filming locations, has been made available.

- g. A production timetable (i.e., a schedule of filming and post-production) that explains the time frame for the project – i.e., when work on the project is expected to begin, what the key phases of the project are, and when it is estimated that the project will be completed and shown in public – has been available. The production timetable shall assume that the production will be completed within three years of the date the request for reimbursement is sent to the Ministry. Under extraordinary circumstances, the Committee on Reimbursement for Film Production may grant an exemption from this condition for a maximum period of five years from the date the pledge was issued.
- h. Information on how public distribution will be handled has been made available.
- i. The topic of the film or television programming does not violate the provisions of the General Penal Code.

If any major changes are made in the premises for the production and the estimated production costs, cf. Paragraph 1, Item (d), after production begins, the applicant shall submit a detailed report and revised cost estimate to the Committee on Reimbursement for Film Production. A major change in costs is considered to be an increase of more than 20% of the current budget.

Advertisements and news material, short films, recordings of athletic and entertainment events, material intended primarily for the promotion of specific goods or services, and material intended primarily for showing in own distribution networks shall not qualify for reimbursement.

#### *Article 5*

Production costs for the project for which reimbursement is requested are considered all costs that are incurred in connection with the production and can be deducted from operating revenues pursuant to the Income Tax Act, and are incurred in Iceland and, as applicable, another EEA member state, cf. Article 2, Paragraph 2 of Act no. 43/1999.

#### *Article 6*

When production is completed on the project for which reimbursement is requested and the financial settlement has been prepared, the applicant shall submit to the Committee on Reimbursement for Film Production an application for disbursement on the basis of the pledge issued pursuant to Article 2. Production is considered complete when all phases of production for which reimbursement is requested are fully finished, delivery of the results has taken place, and the associated expenses have been entered to the applicant's accounts and settled. The application for disbursement shall be accompanied by the following:

- a. A settlement of the costs of the project for which reimbursement is requested, itemised by main operational phases, which is based on the segregation of costs from the applicant's other projects or activities and can be used as a basis for the calculation of a 25% reimbursement.
- b. An itemised summary of the production costs for the project, where final costs are compared with the cost estimate or, as applicable, the revised cost estimate, which was sent to the Committee on Reimbursement for Film Production when the application for reimbursement of production costs was submitted. If there is a

significant discrepancy between the cost estimate and the actual costs according to individual cost items, a report explaining such discrepancies shall be submitted as well. A significant discrepancy shall be considered to exist if the final amounts deviate from the original estimate by more than 20%. If there is a significant increase in the cost of the project according to the same measure as is used for the cost estimate or revised cost estimate, changes in financing shall also be explained and a confirmation from financing agents submitted pursuant to Article 4, Item (f) of Act no. 43/1999.

- c. The basis for reimbursement may only include the applicant's costs that can be deducted from operating revenues pursuant to the Income Tax Act and have been incurred explicitly for the project for which reimbursement is requested. Furthermore, costs related to wages and payments to independent contractors must be considered part of the basis for reimbursement and must verifiably be taxed in Iceland. If a portion of the production costs does not satisfy the conditions laid down in Article 2, Paragraph 3 of Act no. 43/1999 concerning taxation of wages and payments to independent contractors, the deduction for these costs shall be specified in the presentation of production costs for which reimbursement is requested.
- d. Costs incurred abroad can only be used as a basis for reimbursement if they have been incurred in the European Economic Area and more than 80% of the total cost of the film or television programming has been incurred in Iceland. If reimbursement is requested for costs incurred abroad, an itemisation of production costs, broken down by the country in which they were incurred, shall be submitted.
- e. A statement from the applicant's board of directors and managing director, confirming that the settlement of costs submitted and used as a basis for the calculation of the reimbursement is based on accounts maintained in accordance with the Accounting Act and the Annual Accounts Act, and that the costs are segregated adequately from the applicant's other projects and do not include expenses other than the production costs for the project for which reimbursement is requested. Furthermore, the applicant's board of directors and managing director shall confirm that the project for which disbursement is requested and the confirmed settlement of costs are in compliance with the Act on Temporary Reimbursements for Film Production in Iceland, no. 43/1999, with subsequent amendments, and any regulations issued on the basis of the Act.

If the reimbursement exceeds ISK 20 million, the settlement of costs shall also be audited. In verifying the settlement of costs, the Committee referenced in Article 3 may request appropriate information from the tax authorities and from the applicant's accounts. If the settlement of costs and/or the supporting documents are unsatisfactory, the Committee shall grant the applicant a grace period for the submittal of satisfactory documentation. If the Committee does not receive satisfactory documentation by the end of the grace period, or if the case documents indicate that the settlement of costs is not in compliance with the provisions of Act no. 43/1999, the Committee shall reject the application.

If the documents accompanying the application for payment of the reimbursement differ in major ways from the premises of the application and the application documents used as a basis for the issuance of the pledge pursuant to Article 2, the Committee shall reject the request for reimbursement.

The Committee for Reimbursement shall publish instructions on the submittal of applications for disbursement and shall specify further what documentation is required and in what form.

If an application for payment of the reimbursement is received more than six months after production is completed on the project for which reimbursement is requested, the application shall be rejected.

#### *Article 7*

If the Committee considers the conditions for reimbursement to be satisfied, it shall authorise disbursement and determine the amount of the reimbursement on the basis of the information submitted on the basis for calculation of the reimbursement pursuant to this Regulation and Act no. 43/1999.

#### *Article 8*

If the applicant has received a grant from public entities for the production for which reimbursement is requested, the grant shall be deducted from the production costs pursuant to Article 5 when the reimbursement is calculated.

The combined amount of grants from public entities and the total amount of the reimbursement pursuant to Article 1 shall not exceed 85% of the total production costs of the film or television programme in question.

The amount of the reimbursements according to this Regulation is subject to Parliamentary allocations in accordance with the National Budget. The Committee is authorised to defer the disbursement of reimbursements that may exceed Parliamentary allocations at any given time. If approved reimbursements during the fiscal year exceed budgetary allocations, the Committee is authorised to defer reimbursements, either partially or in full, until the following fiscal year.

If the Government of Iceland has outstanding claims against the applicant for reimbursement of illegal State aid, the application for reimbursement shall be rejected.

If the applicant for reimbursement is in financial difficulties, the application shall be rejected. A company is considered to be in financial difficulties if at least one of the following conditions is satisfied:

1. The company is a limited liability company, and its net worth according to generally accepted financial reporting standards has fallen to less than half of paid-in share capital plus capital reserves. This item does not apply to a small or medium-sized company that has been in operation for three years or less.
2. The company is one for which at least one party bears unlimited liability for all of the company's debts, and its net worth according to generally accepted financial reporting standards has fallen to less than half of paid-in share capital plus capital

reserves. This item does not apply to a small or medium-sized company that has been in operation for three years or less.

3. The company is in insolvency proceedings or satisfies statutory provisions for being subjected to insolvency proceedings.
4. The company has received aid in the sense of the EFTA Surveillance Authority's Guidelines on Rescuing and Restructuring Firms in Difficulty and has not yet repaid the loan or lifted the guarantee, or it has received aid for restructuring and is still bound by an approved restructuring plan.
5. The company is neither small nor medium-sized and has satisfied the following conditions in the last two accounting years:
  - a. the ratio of the book value of the company's debt to its equity has exceeded 7.5; or
  - b. the company's earnings before interest and depreciation (EBITDA) are less than the net cost of capital for the year.

#### *Article 9*

The pledge must be cancelled and repayment demanded from the recipient of already disbursed grants if it is revealed that the applicant knowingly provided incorrect information or concealed information that affected the Committee's assessment. The same applies if the EFTA Surveillance Authority determines that the grant constituted illegal state aid.

#### *Article 10*

This Regulation is adopted on the basis of Article 8 of Act no. 43/1999, with subsequent amendments, and shall take effect at once. At the same time, Regulation no. 622/2012, with subsequent amendments, shall be abrogated.

*Ministry of Industries and Innovation, 15 May 2017*

For the Minister of Tourism, Industries, and Innovation

**Ingvi Már Pálsson**

**Þórður Reynisson**