

Warsaw, 10 January 2019.

Item 50

ACT

of 9 November 2018

on financial support for audio-visual production¹

Chapter 1

General Regulations

Article 1. 1. The Act shall define the principles, the terms and conditions and the procedure for granting and settling financial support.

2. The financial support constitutes state aid in accordance with Article 107 (1) of the Treaty on the functioning of the European Union.

3. This Act shall not violate the principles of co-financing film production and other activities in the field of cinematography set out in the Act of 30 June 2005 on Cinematography (Journal of Laws of 2018, item 597).

4. The state aid referred to in Section 2 shall be granted according to the rules defined in the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (Official Journal of the European Union L 187 of 26 Jun 2014, page 1, as amended²), in particular Article 54 of the Regulation, hereinafter referred to as "Regulation No. 651/2014".

5. The objective of granting the financial support shall be to:

- 1) improve the conditions for existence of the audio-visual production market;
- 2) create the conditions for investing foreign capital in audio-visual productions implemented within the territory of the Republic of Poland;
- 3) create the conditions for cooperation between Polish and foreign audio-visual producers implemented within the territory of the Republic of Poland;
- 4) increase the activity of Polish entrepreneurs operating on the audio-visual production market;
- 5) raise the international competitiveness of Polish entrepreneurs operating on the audio-visual production market;
- 6) increase the use of technical potential of audio-visual production within the territory of the Republic of Poland;
- 7) strengthen the creative potential and increase the professionalism of representatives of the Polish audio-visual production market;
- 8) support the sustainable economic development of the state and its regions by creating conditions for the development of creative industries;
- 9) develop the culture and promotion of the image of the Republic of Poland and the Polish cultural heritage in the world.

¹ This Act shall amend the Act of 30 June 2005 on Cinematography and repeals the Act of 16 July 1987 on State Film Institutions.

² Amendments to the said regulation were announced in the Official Journal of the European Union L 329 of 15 Dec 2015, page 28, the Official Journal of the European Union L 149 of 7 Jun 2016, page 10, the Official Journal of the European Union L 156 of 14 Jun 2017, page 1 and the Official Journal of the European Union L 236 of 14 Sep 2017, page 28.

Article 2. The terms used herein shall have the following meaning:

- 1) media service provider - a media service provider within the meaning of Article 4 (4) of the Act of 29 December 1992 on radio and television (Journal of Laws of 2017, items 1414 and 2111 and Journal of Laws of 2018, items 650, 915 and 1717);
- 2) co-producer of an audio-visual work - an entrepreneur who organizes, runs and bears, together with the producer of an audio-visual work, responsibility for audio-visual production or who co-finances audio-visual production and acquires a share in proprietary copyrights to an audio-visual work;
- 3) Polish eligible costs - the costs of audio-visual production or provision of services for audio-visual production incurred within the territory of the Republic of Poland if they are subject to a tax obligation within the meaning of tax regulations and fall within the catalogue specified in Article 54 (5) of Regulation No. 651/2014;
- 4) producer of an audio-visual work - an entrepreneur who takes an initiative regarding audio-visual production, organizes, runs audio-visual production and bears responsibility for this production and acquires proprietary copyrights to an audio-visual work;
- 5) audio-visual production - a set of creative, organizational, economic, legal and technical activities leading to the creation of an audio-visual work;
- 6) entrepreneur – the entity referred to in Article 1 of Annex I to Regulation No. 651/2014;
- 7) audio-visual production service - a service provided by entrepreneurs as part of their business activities to a producer or co-producer of an audio-visual work for the purposes of audio-visual production;
- 8) audio-visual work - a work composed of a series of consecutive images with sound or without sound fixed on a medium that allows multiple reproduction, creating the impression of movement and constituting the original entirety expressing action or content in an individual form, realized in the form of a feature, documentary or animated film, or a feature, documentary or animated series, regardless of the field of exploitation referred to in the provisions of the Act of 4 February 1994 on copyright and related rights (Journal of Laws of 2018, item 1191, 1293, 1669, 2245 and 2339);
- 9) financial support - financial resources granted to an entrepreneur by the Polish Film Institute in the form of co-financing to cover part of the eligible costs related to audio-visual production or providing an audio-visual production service.

Chapter 2

Tasks and revenue of the Polish Film Institute arising from granting and settling financial support

Article 3. The tasks of the Polish Film Institute, hereinafter referred to as the “Institute”, arising from financial support shall include:

- 1) granting financial support;
- 2) settling funds allocated as part of financial support;
- 3) carrying out the audit referred to in Article 28 (1);
- 4) collecting data on the audio-visual market, including financial and production data as well as data on domestic and foreign distribution;
- 5) analysing and drawing up reports on the impact of the granted financial support on the development of the audio-visual production market and areas of the Polish economy related to the incurred Polish eligible costs;

- 6) promotion of the Polish audio-visual production market related to creating conditions for foreign audio-visual productions and investments in the audio-visual production market within the territory of the Republic of Poland as well as promotion of the Republic of Poland as a place of audio-visual production;
- 7) maintaining a register of financial support, hereinafter referred to as the “register”.

Article 4. The tasks of the Director of the Institute related to financial support shall include:

- 1) settling and refunding earmarked subsidies received from the state budget;
- 2) issuing certificates qualifying for the receipt of financial support;
- 3) concluding financial support contracts;
- 4) verifying settlements of Polish eligible costs;
- 5) paying out financial support;
- 6) managing activities related to the promotion of the Polish audio-visual production market and the promotion of the Republic of Poland as a place of audio-visual production;
- 7) creating conditions for foreign audio-visual productions and investments on the audio-visual production market within the territory of the Republic of Poland.

Article 5. 1. The revenue of the Institute related to financial support shall include:

- 1) earmarked subsidies from the state budget allocated for financial support;
- 2) revenue from fees paid for processing applications for financial support;
- 3) financial resources of foreign origin;
- 4) other financial resources, including inheritances and donations.

2. The financial support from earmarked subsidies referred to in Section 1 Item 1 shall be paid out by the Institute by 31 December of the year in which they were granted. Settlement of the defined subsidies, including the return of the earmarked subsidies not used by the end of the year, shall be performed by 31 January of the year following the year in which they were granted.

Article 6. 1. The Institute shall maintain the register gathering data concerning:

- 1) issued certificates referred to in Article 17 (2);
- 2) submitted applications for financial support, including:
 - a) the business name and the registered office of the entrepreneur who has submitted the application,
 - b) the title and type of audio-visual work covered by the application,
 - c) the date and manner of settlement of the application,
 - d) the amount of financial support requested by the entrepreneur,
 - e) the amount of financial support granted and the date of its payment;
- 3) the current level of the total amount of financial support granted in a given calendar year;
- 4) the amount of financial support granted by the Institute in previous years.

2. The register shall be public and shall be made available on the Institute’s website in the Public Information Bulletin.

3. The data shall be entered into the register within:

- 1) 7 days from the date on which the data referred to in Section 1 item 1 was changed;
- 2) 14 days from the date on which the data referred to in Section 1 items 2-4 was changed.

Granting financial support

Article 7. 1. Financial support shall be granted for audio-visual production or for the provision of audio-visual production services where:

- 1) the value of Polish eligible costs ensures that the objectives referred to in article 1 (5) are fulfilled;
- 2) the planned duration thereof allows their dissemination in the fields of exploitation appropriate for particular types of audio-visual works.

2. Only one financial support may be granted for audio-visual production of a given audio-visual work.

3. In the case of the series, financial support shall be granted for each season of the series separately.

Article 8. 1. The Institute shall grant financial support to an entrepreneur who is a producer of an audio-visual work, a co-producer of an audio-visual work or an entity providing an audio-visual production service which:

- 1) has its registered office within the territory of the Republic of Poland;
- 2) was a producer of an audio-visual work, a co-producer of an audio-visual work or provided an audio-visual production service in relation to at least one audio-visual work which was distributed in cinemas, broadcasted or made public by a media service provider or presented at least at one international film festival accredited by the International Federation of Film Producers Associations (FIAPF), or employs a person managing the entrepreneur or a person responsible for audio-visual production having experience in the field of audio-visual production or co-production of such an audio-visual work;
- 3) has concluded a contract for the co-production of an audio-visual work within the territory of the Republic of Poland or an agreement for the provision of audio-visual production services within the territory of the Republic of Poland before submitting an application for financial support;
- 4) meets the requirements set out in the provisions of law on state aid.

2. Financial support may only be granted to an entity providing an audio-visual production service unless the producer of an audio-visual work or any of the co-producers of an audio-visual work has its registered office within the territory of the Republic of Poland.

3. Financial support may also be granted to an entrepreneur who is a producer of an audio-visual work or a co-producer of an audio-visual work which has its registered office in another Member State of the European Union or in a Member State of the European Free Trade Association (EFTA) - the party to the Agreement on the European Economic Area should it fulfil the following conditions jointly:

- 1) it has a branch within the territory of the Republic of Poland;
- 2) the subject of financial support is an audio-visual work produced by this branch.

4. If an audio-visual work is produced by a branch referred to in Section 3, the conditions set out in Section 1 Items 2-4 must be fulfilled by this branch.

Article 9. Financial support shall not be granted to an entrepreneur that is:

- 1) a media service provider unless this activity is not for it the predominant activity referred to in the Act of 29 June 1995 on official statistics (Journal of Laws of 2018, item 997, 1000, 1629 and 1669);
- 2) an entity distributing programs via cable, satellite or through an ICT system;

- 3) an entity providing services consisting in sharing ICT system resources for the purpose of data storage;
- 4) an entity for which the entity listed in items 1-3 above is the parent company within the meaning of Article 4 § 1 (4) of the Act of 15 September 2000 - the Code of Commercial Companies and Partnerships (Journal of Laws of 2017, item 1577 and 2018, items 398, 650, 1544, 2219 and 2244).

Article 10. Financial support shall neither be granted to an entrepreneur that:

- 1) has arrears arising from public law liabilities, or
- 2) remains under receivership or is in the process of liquidation, bankruptcy proceedings, restructuring proceedings, or
- 3) in the period of 3 years prior to submitting the application for financial support did not submit the final report on the work covered by financial support, hereinafter referred to as the "report", or
- 4) did not refund the state aid granted by the Republic of Poland recognized pursuant to the decision of the European Commission as unlawful and granted against the internal market, or
- 5) is an entrepreneur in a difficult situation within the meaning of Article 2 (18) of Regulation No. 651/2014, or
- 6) has been convicted by virtue of a final and binding sentence for a crime of: making false testimonies, bribery, a crime against the credibility of documents, property, trade, money and securities trading, banking system, a tax offense or any other business-related crime or a crime committed for financial gain; or whose partner or member of the body is a natural person who has been convicted by virtue of a final and binding sentence for such a crime, or
- 7) in the period of 3 years prior to submitting the application for financial support grossly violated the co-financing agreement referred to in Article 23 (3) of the Act of 30 June 2005 on cinematography by failing to settle the co-financing in accordance with this agreement.

Article 11. Financial support shall not be granted for the production of audio-visual works of an advertising nature and ones:

- 1) resulting from the registration of:
 - a) performances of verbal works, works comprising text and music, musical or pantomime works,
 - b) events from political, social, cultural, religious, economic or sport life,
 - c) events from private life,
 - d) pornographic content;
- 2) prepared for the purposes of science, teaching, technology, promotion, information or instruction;
- 3) prepared for internal use of churches and other religious associations.

Article 12. As part of the financial support provided for a given year, the Institute shall grant at least 10% support for the production of animated films and animated series.

Article 13. 1. The amount of financial support together with other sources of state aid may not exceed 50% of the total cost of production of an audio-visual work.

2. The amount of financial support together with other sources of state aid granted for the production of an audio-visual work may not exceed in total 70% of the total production costs of an audio-visual work in the case of production of a difficult audio-visual work which has limited commercial values due to the fact that:

- 1) is aimed at the audience up to 12 years of age, or
- 2) in its assumption promotes the Polish historical or cultural heritage throughout the world and at the same time Polish eligible costs of its audio-visual production exceed at least twice the minimum values of Polish eligible costs entitling an application therefor.

3. The amount of financial support together with other sources of state aid granted for the production of an audio-visual work may not exceed in total 60% of the total audio-visual production costs in the case of a co-production of an international audio-visual work in which one of the countries of origin of producers of the audio-visual work or co-producers of the audio-visual work is the Republic of Poland and other producers of an audio-visual work or co-producers of an audio-visual work come from other European Union Member States or European Free Trade Association (EFTA) Member States - parties to the Agreement on the European Economic Area. This limit shall not apply to a difficult work, as referred to in Section 2.

4. The production costs referred to in Section 1-3 shall be deemed to include costs falling within the catalogue as defined in Article 54 (5) of Regulation No. 651/2014.

Article 14. 1. Financial support shall be granted in the amount of 30% of Polish eligible costs, with a stipulation that the Polish eligible costs which form the basis for calculating financial support may not exceed 80% of the total audio-visual production costs.

2. Where the amount of financial support together with other sources of state aid exceeds the limits of financial support specified in Article 13 (1-3), financial support shall be granted in an amount lower than the one specified in Section 1 so that financing from public sources shall not exceed the limits specified in Article 13 (1-3).

3. The amount of financial support granted for one audio-visual work may not exceed PLN 15,000,000.

4. The amount of total financial support that may be granted to one entrepreneur in a given calendar year may not exceed PLN 20,000,000.

Article 15. 1. Polish eligible costs shall include reasonable and indispensable costs of:

- 1) preparations for the production incurred as part of the search for shooting locations of audio-visual production;
- 2) implementation of audio-visual production;
- 3) set design and costumes;
- 4) obtaining technical equipment for audio-visual production;
- 5) travel, accommodation and meals;
- 6) editing and post-production;
- 7) production of animations and special effects;
- 8) related to the involvement of people in the production of an audio-visual work, including income taxes and social security contributions;
- 9) rights and licenses for music and archival materials used in audio-visual production;
- 10) production of formats enabling access to an audio-visual work for disabled people, including audio-descriptions and subtitles for the deaf.

2. Costs of purchasing goods or services shall be considered eligible Polish costs if:

- 1) an entrepreneur supplying goods or services has the registered office or branch within the territory of the Republic of Poland, operates within the territory of the Republic of Poland and is entered in the relevant register;
- 2) the goods and services, including the rental or lease of technical infrastructure, are acquired or provided within the territory of the Republic of Poland

3. Costs, including fees, remuneration and other considerations intended for persons involved in the production of an audio-visual work under contracts other than an employment contract shall be considered as eligible Polish costs if they are subject to tax liability within the meaning of tax regulations and fall within the catalogue specified in Article 54 (5) of Regulation No. 651/2014.

4. Costs, including fees, remuneration and other benefits intended for persons involved in the production of an audio-visual work under employment contracts shall be considered eligible Polish costs if they include the labour costs of employees of an entrepreneur who has received financial support or its co-producers, or their subcontractors who are subject to unlimited tax liability in accordance with the Act of 26 July 1991 on personal income tax (Journal of Laws of 2018 item 1509, as amended³).

5. The Polish eligible costs shall not include the Value Added Tax and costs related to running business by producers or co-producers not directly related to audio-visual production or rendering services for audio-visual production which is the subject of financial support.

Chapter 4

The mode of granting and settling financial support

Article 16. 1. An entrepreneur intending to obtain financial support may apply for a certificate confirming the fulfilment of the qualification test criteria, hereinafter referred to as the "certificate".

2. The application for a certificate shall include:

- 1) the entrepreneur's business name;
- 2) the registered office and address, the telephone number, the e-mail address, the entry number in the Register of Entrepreneurs of the National Court Register or information on entry in the Central Register and Information on Economic Activity, the NIP tax identification number and the REGON business identification number;
- 3) specification of the audio-visual work being the subject of the application, including specification of the title, language, literary basis, planned duration, genre and type of audio-visual work, director, screenwriter, cinematographer and composer of the audio-visual work, indication of whether the financial support is associated with audio-visual production or with the audio-visual production service, and specification whether an audio-visual work is a difficult work, as referred to in Article 13 (2);
- 4) the estimated amount of the financial support;
- 5) the scenario of an audio-visual work.

3. The application for the issue of the certificate shall be accompanied by a completed qualification test.

³ Amendments to the consolidated text of the Act in question were announced in the Journal of Laws of 2018, item 1540, 1552, 1629, 1669, 1693, 2073, 2126, 2159, 2192, 2193, 2215, 2242, 2244, 2245, 2246, 2429 and 2529 and Journal of Laws of 2019, item 29.

4. The qualification test shall contain a set of criteria and the corresponding score assigned thereto which are used to assess whether an audio-visual work:

- 1) uses the Polish or European cultural heritage;
- 2) locates the action within the territory of the Republic of Poland;
- 3) is produced on the territory of the Republic of Poland;
- 4) ensures participation of Polish employees, associates or entities providing services for audio-visual production in the audio-visual production;
- 5) ensures the participation of the Polish film infrastructure.

5. The Institute shall consider the application for a certificate no later than 28 calendar days from the date of its submission.

Article 17. 1. Following the examination of the application for the issue of the certificate, the Institute shall issue the certificate.

2. The certificate shall include:

- 1) the entrepreneur's business name;
- 2) a description of the audio-visual work to be covered by the financial support;
- 3) the date of issue of the certificate.

3. The certificate may be issued if the audio-visual work receives at least 51% of the obtainable credits in the qualification test.

4. The certificate shall be valid for 4 years from the date of its issue.

Article 18. 1. The Institute shall grant the financial support on the basis of the application submitted by the entrepreneur, hereinafter referred to as the "applicant".

2. The application shall be submitted no earlier than six months and no later than two months prior to the commencement of the works to be covered by the financial support.

3. The application shall contain:

- 1) the entrepreneur's business name;
- 2) the registered office and address, the telephone number, the e-mail address, the entry number in the Register of Entrepreneurs of the National Court Register or information on entry in the Central Register and Information on Economic Activity, as well as the NIP tax identification number and the REGON business identification number;
- 3) information on the applicant's turnover in the tax year preceding the submission of the application;
- 4) information confirming that the applicant fulfils the conditions for granting the financial support;
- 5) specification of the audio-visual work being the subject of the application, including specification of the title, language, literary basis, planned duration, genre and type of audio-visual work, director, screenwriter, cinematographer and composer of the audio-visual work, indication of whether the financial support is associated with audio-visual production or with the audio-visual production service, and specification whether an audio-visual work is a difficult work, as referred to in Article 13 (2);
- 6) specification of works covered by the financial support
- 7) information on the audio-visual work confirming fulfilment of the conditions for granting the financial support, including specification of the number of credits obtained in the qualification

test, the amount of the planned Polish eligible costs as well as the amount and percentage of public funds to finance audio-visual production;

- 8) specification of the dates of commencement and completion of works related to audio-visual production covered by the financial support together with the dates of the individual stages of their implementation;
- 9) the amount of the estimated financial support requested by the applicant;
- 10) the amount of the total planned production costs of the audio-visual work within the scope of works covered by the application for the financial support and as regards the audio-visual production the planned total budget of the audio-visual production;
- 11) specification of the location of the works covered by the financial support and the number of shooting days or days of audio-visual production or audio-visual post-production within the territory of the Republic of Poland and other countries;
- 12) the business name, registered office and address of the producers of an audio-visual work or co-producers of an audio-visual work;
- 13) the names, surnames, citizenships and functions of individual film crew members confirming the fulfilment of the qualification test criteria;
- 14) information specified in Article 37 (5) of the Act of 30 April 2004 on proceedings in matters concerning state aid (Journal of Laws of 2018, item 362).

2. The applicant shall attach to the application:

- 1) a copy of the co-production agreement or the agreement for the provision of audio-visual production services translated into Polish by a sworn translator;
- 2) a certificate from the tax office on having no tax arrears or no arrears as regards other liabilities governed by the provisions of the Act of 29 August 1997 - Tax Ordinance (Journal of Laws of 2018, item 800, as amended⁴) issued no earlier than 30 days prior to submitting the application;
- 3) a certificate from the Social Insurance Institution on having no arrears in the payment of social insurance contributions not older than 30 days;
- 4) a declaration on the absence of circumstances referred to in Article 10;
- 5) information on the experience of the applicant's employees or associates involved in the audio-visual production;
- 6) the audio-visual production schedule;
- 7) the plan for financing the audio-visual production, along with copies of documents confirming the fulfilment of conditions for granting the financial support translated into Polish by a sworn translator, confirming at least 75% of the total funding, in particular contracts and decisions on co-financing from sources other than the financial support;
- 8) the cost estimate of audio-visual production with a plan of expenses related to the audio-visual production within the territory of the Republic of Poland and territories of other countries;
- 9) the synopsis and the script of an audio-visual work;
- 10) confirmation of the acquisition of rights to the script or the basis of a literary audio-visual work;
- 11) the qualification test completed.

5. The Institute shall charge a fee for processing the application. The fee shall be paid to the bank account of the Institute. The fee shall amount to 0.05% of the estimated financial support requested by the applicant, though not more than PLN 1,000.

⁴ Amendments to the consolidated text of the Act in question were announced in the Journal of Laws of 2018, item 650, 723, 771, 1000, 1039, 1075, 1499, 1540, 1544, 1629, 1693, 2126, 2193, 2244 and 2354.

6. The Institute shall publish on its website in the Public Information Bulletin information on the manner of submitting and considering applications and the application form.

Article 19. 1. An applicant may submit a request if at the time of its submission it has documented financing for at least 75% of the costs of works to be covered by financial support, falling within the catalogue specified in Article 54 (5) of Regulation No. 651/2014.

2. If the applicant submits an application for the financing of an audio-visual production service, that financing must be documented at least at the rate of 75% of the costs of the works to be covered by the financial support to which the service relates, falling within the catalogue referred to in Article 54 (5) of Regulation No. 651/2014.

Article 20. 1. The Institute shall consider the application and inform the applicant in writing of the decision within 28 calendar days from the date of its submission.

2. In the event of submitting an application which fails to fulfil the requirements referred to in Article 18 (3), or failing to attach to the application the documents referred to in Article 18 (4), the Institute shall return the application to the applicant and informs them in writing about the deficiencies found and about the possibility of re-submitting the application.

3. Should the evaluation of the cost estimate referred to in Article 18 (4) (8) indicate the inadequacy of the cost items in relation to the implementation assumptions and the scenario, the Institute shall present the applicant with comments to the cost estimate with a written substantiation thereof and shall requests the applicant to submit a modified cost estimate within 14 days from the service of the request.

4. Should no modified cost estimate be presented, the Institute shall determine the maximum amount of a given type of eligible cost to be considered as eligible for the financial support and shall submit it to the applicant in writing within 14 days of the deadline for submitting the modified cost estimate by the applicant.

5. In the cases referred to in Section 3 and 4, the period specified in Section 1 shall run from the date of the applicant's submission of the modified cost estimate or from the day of the Institute's presentation of the maximum amount of the eligible cost subject to settlement as the financial support.

6. The Institute shall consider the applications in the order in which they are submitted until the funds allocated for the financial support provided for in the Institute's financial plan for a given year, have been exhausted.

7. The Institute shall inform the applicant in writing of its failure to examine of the application due to the exhaustion of the financial resources referred to in Section 6. should the Institute fail to examine the application, the fee referred to in Article 18 (5) shall be refunded.

8. The Institute shall create a reserve list of applications that shall be examined in the event of the applicant's resignation from the financial support granted to them in a given calendar year.

Article 21. 1. The application shall be examined once the fulfilment of the conditions for granting the financial support, including those specified in the qualification test, have been verified.

2. Financial support may be granted if the application receives at least 51% of the obtainable credits in the qualification test.

Article 22. 1. The Institute shall, within 28 calendar days from the date of notifying the applicant of granting the financial support, conclude an agreement on the financial support with the applicant.

2. The Institute may withdraw from the agreement on the financial support if within 3 months from the date of commencement of the works covered by the financial support specified therein the applicant or his co-producers fail to start the works.

3. Upon withdrawal from the agreement for the financial support, the applicant may re-apply for financial support for the same audio-visual work only once.

Article 23. The agreement for the financial support shall include in particular:

- 1) description of the audio-visual work which the financial support relates to;
- 2) the amount of the financial support granted for a given audio-visual work;
- 3) the dates of commencement and completion of works covered by the financial support together with the dates of their individual implementation stages and deadlines for presenting the report;
- 4) specification of materials connected with the audio-visual production provided by the entrepreneur which the financial support relates to in order to be used by the Institute as part of the promotional activities specified in Article 3 (6);
- 5) the date or dates of payment of the financial support;
- 6) the amount of contractual penalties for the applicant's late submission of the report;
- 7) the terms and conditions of terminating the agreement for the financial support.

Article 24. 1. The Institute shall pay the financial support after the conclusion of the agreement for the financial support to a fiduciary bank account maintained in Bank Gospodarstwa Krajowego, managed by the Institute and separated only for financial operations related to the financial support.

2. The entrepreneur that has been granted the financial support may take funds accumulated on the escrow account referred to in Section 1 once the Institute has successfully verified the report in accordance with Article 26 (1).

3. Should the value of the financial support resulting from the settled Polish eligible costs be lower than the amount of the funds accumulated on the escrow account referred to in Section 1, the Institute shall transfer the funds remaining on the escrow account for financial support of other audio-visual works.

4. The transfer of funds to the escrow account referred to in Section 1 shall fulfil the purpose of granting financial support within the meaning of Article 168 Section 5 of the Act of 27 August 2009 on Public Finance (Journal of Laws of 2017, item 2077, as amended⁵).

Article 25. 1. After completion of works covered by the financial support, the entrepreneur that has received the financial support shall provide the Institute with a report which shall include:

- 1) the business name of the entrepreneur that has been granted the financial support;
- 2) the registered office and address, the telephone number, the e-mail address, the entry number in the Register of Entrepreneurs of the National Court Register or information on entry in the Central Register and Information on Economic Activity, the NIP tax identification number and the

⁵ Amendments to the consolidated text of the Act in question were announced in the Journal of Laws of 2018, item 62, 1000, 1366, 1669, 1693, 2245, 2354 and 2500.

REGON business identification number of the entrepreneur that has been granted the financial support;

- 3) specification of the audio-visual work being the subject of the application, including specification of the title, language, literary basis, planned duration, genre and type of audio-visual work, director, screenwriter, cinematographer and composer of the audio-visual work, indication of whether the financial support is associated with audio-visual production or with the audio-visual production service, and specification whether an audio-visual work is a difficult work, as referred to in Article 13 (2);
- 4) a brief description of the course of individual stages of audio-visual production covered by the financial support;
- 5) data on the audio-visual production costs necessary to verify the financial support due;
- 6) data regarding the fulfilment of the terms and conditions specified in the qualification test;
- 7) data on the course of audio-visual production necessary to confirm the fulfilment of the terms and conditions specified in the application;
- 8) the amount and percentage share of public funds obtained from sources other than the financial support;
- 9) indication of producers of the audio-visual work or co-producers of the audio-visual work.

2. The report shall be accompanied by:

- 1) a list of Polish eligible costs incurred together with documents supporting:
 - a) the incurrence of costs of purchasing goods or services constituting Polish eligible costs, in particular invoices, bills and receipts for payment for the goods or services,
 - b) the payment of royalty fees, fees and other benefits constituting the labour costs of persons engaged in the audio-visual production during the course of the audio-visual production, in particular contracts concluded with natural persons (employment contracts, contracts for the provision of services, mandate contracts or contracts for the performance of specific work) as well as confirmations of payment of remuneration for the implementation of these contracts;
- 2) the qualification test completed on the basis of current data at the time of presenting the report;
- 3) a list of names, surnames and functions of individual members of the film crew, as well as information on the number of shooting days within the territory of the Republic of Poland.

3. The entrepreneur shall provide the Institute with one copy of the non-used copy of the audio-visual work and documentation related to the audio-visual production, including the script, continuity and dialogue list, photos, posters, a list of subtitles and the advertising materials, within 30 days after the end of the audio-visual production, however, not later than on the day of the beginning of the distribution of the audio-visual work.

Article 26. 1. The Institute shall verify the report and determine whether:

- 1) the report fulfils the requirements referred to in Article 25;
- 2) at least 51% of the obtainable credits were obtained in the qualification test completed on the basis of current data at the time of presenting the report;
- 3) the works covered by the financial support have been implemented in accordance with the agreement on the financial support;
- 4) the economic and financial opinion on the report indicates that the costs presented in this report constitute Polish eligible costs.

2. The Institute shall carry out the verification referred to in Section 1, within no more than 90 calendar days from the date of receipt of the report. The Director of the Institute shall notify the entrepreneur in writing of the date of the end of the verification and its result.

3. Should the Institute conduct the audit referred to in Article 28 (1) (2), the date specified in Section 2 shall run from the day the audit is completed.

Article 27. 1. The Economic and financial opinion on the report shall be prepared by an audit firm selected by the Institute from the list referred to in Section 2, and shall include an assessment of whether the costs presented in the report constitute Polish eligible costs.

2. The Institute shall maintain a list of audit firms issuing opinions on reports. When drawing up the list, the Institute shall be guided by the need for the auditing firm to have the necessary qualifications regarding the verification of audio-visual production financing.

Article 28. 1. The Institute may control entrepreneurs that have been granted financial support in the field of audio-visual production or services for audio-visual production for which entrepreneurs have been granted financial support in order to verify:

- 1) the timeliness of the works covered by the financial support in accordance with the deadlines specified in the agreement for the financial support, or
- 2) the reliability of information included in the report and annexes to the report.

2. The Institute may conduct the verification I in the period from the date of signing the agreement for the financial support to the date of completion of the report verification.

3. The audit referred to in Section 1 (2) may not be conducted for a period longer than 2 months.

4. The audit shall be carried out by employees of the Institute or audit firms from the list referred to in Article 27 (2) under a written authorization granted by the Director of the Institute.

5. The authorization shall contain:

- 1) indication of the legal basis of the audit;
- 2) date and place of issue;
- 3) the name and surname of the person authorized to carry out the audit, hereinafter referred to as the "authorized person";
- 4) the entrepreneur's business name;
- 5) the date of commencing and completing the audit;
- 6) the scope of the audit

6. The authorized person shall have the right to:

- 1) access the registered office of the entrepreneur that has been granted financial support, the site and the premises where the audio-visual production or the audio-visual production service covered by the financial support is being or has been conducted or provided;
- 2) demand documents related to expenditure for the audio-visual production or the audio-visual production service constituting the Polish eligible costs, including contracts and accounting documents;
- 3) access documentation regarding the agreement for the financial support, including accounting documents, contracts, photographic and audio-visual documentation from the audio-visual production process;

- 4) requests submission of written explanations related to the granting and settling the financial support.

Article 29. 1. The authorized person shall draw up an audit report which shall include:

- 1) the business name and address of the entrepreneur;
- 2) indication of the legal basis of the audit;
- 3) the name and surname of the authorized person and the date of issuing the authorization to conduct the audit;
- 4) the date of commencement and completion of the audit with the indication of audit break days;
- 5) the scope and subject of the audit;
- 6) a description of the facts established as a result of the audit, including irregularities found, the reasons for their occurrence, scope and consequences, as well as the names and surnames and functions of the persons responsible for the irregularities;
- 7) indication of the basis of the findings made;
- 8) in the case of another audit, information on the implementation of post-audit recommendations issued as a result of the last audit;
- 9) instruction on the right, method and date of submission of reservations to the findings included in the audit report and on the right to refuse to sign the protocol;
- 10) a note on the submission of objections to the findings included in the audit report and on the position taken by the authorized person with regard thereto;
- 11) discussion of corrections, deletions and additions made in the audit report;
- 12) signature of the authorized person and indication of the place and date of signing the audit report;
- 13) signature of the entrepreneur and indication of the place and date of signing the audit protocol, or in case of refusal to sign the audit protocol - a mention of this fact.

2. The audit report shall be signed by the authorized person and the entrepreneur.

3. Prior to signing the audit report, the entrepreneur may submit written objections to the findings included in the audit report within 14 days of receipt thereof.

4. In the event of objections to the findings included in the audit report, the authorized person shall, within 14 days from the date of receipt thereof, analyse the objections and take additional checks as necessary.

5. Should it be determined that the objections to the findings contained in the audit report are justified in whole or in part, the authorized person shall change or supplement the audit report.

6. In the event of failure to consider the objections to the findings contained in the audit report in full, the authorized person shall leave the audit report unchanged.

7. The entrepreneur may refuse to sign the audit report, submitting within 7 days of receipt thereof the written explanation of the reasons for the refusal.

8. In the event of refusal to sign the audit protocol, the authorized person shall attach to it a written explanation of the reasons for the refusal.

9. The refusal to sign the audit protocol by the entrepreneur shall not constitute an obstacle to the signing of the protocol by an authorized person.

Article 30. 1. Should, as a result of the audit, it be found that the entrepreneur fails to fulfil the obligations under the act or the agreement for financial support, the Director of the Institute

shall issue post-audit recommendations in which he/she shall requests the entrepreneur to remedy the irregularities or provide explanations.

2. The irregularities shall be remedied or the explanations shall be provided by the deadline indicated by the Director of the Institute, not shorter than 30 days from the delivery of post-audit recommendations to the entrepreneur.

3. Should, after the expiry of the deadline referred to in Section 2, the entrepreneur fail to remedy the abovementioned irregularities or should the explanations given by them prove insufficient, the Director of the Institute may indicate the measures to be taken by the entrepreneur in order to remedy the irregularities together with an indication of the deadline for the remedy thereof.

4. Failure to comply with the measures referred to in Section 4 shall constitute the basis for withdrawal from the agreement for financial support by the Director of the Institute.

Article 31. 1. The minister competent for culture and protection of national heritage shall specify, by way of regulation:

- 1) a detailed list of costs that may constitute Polish eligible costs and a detailed list of costs excluded from eligibility as Polish eligible costs under Article 15 (5);
- 2) minimal planned durations of audio-visual works and minimum values of Polish eligible costs entitling one to apply for financial support - separately for individual types of audio-visual works;
- 3) the template of the application for issuing the certificate;
- 4) the template of the application for financial support;
- 5) the template of the qualification test together with the detailed criteria of the qualification test and the corresponding score;
- 6) the template of the report.

2. The regulation referred to in Section 1 shall take into account respectively:

- 1) the costs the expenditure of which shall be indispensable for audio-visual production and whose incurrence shall contribute to the development of the Polish audio-visual industry;
- 2) the need to adjust the system of financial support to market conditions and current directions of the development of audio-visual production;
- 3) changes taking place in the conditions of co-financing of audio-visual production within territories other than the Republic of Poland;
- 4) methods of production and post-production of individual types of audio-visual works;
- 5) the impact of audio-visual production on strengthening the creative and economic potential of the Polish audio-visual production market;
- 6) the efficiency of the procedure for granting financial support and verification of compliance with the conditions for granting and paying out financial support;
- 7) the need to standardize the documents used in the manner of granting and settling financial support.

Chapter 5

Amending, transitional and final provisions

Article 32. In the Act of 30 June 2005 on cinematography (Journal of Laws of 2018, item 597), the following amendments shall be introduced:

- 1) in Article 8 (1) (9) the full stop shall be replaced with a semicolon and the following items 10 and 11 are added:

“10) supporting audio-visual production in accordance with the Act of 9 November 2018 on financial support for audio-visual production (Journal of Laws of 2019, item 50);

11) granting an identifier published on the Institute’s website in the Public Information Bulletin to each film shown at the cinema.”;

- 2) in Article (11) item 3 shall be deleted;

- 3) in Article 18 (1):

- (a) item 7 shall be deleted,

- (b) the following item 8 shall be added:

- “8) proceeds from penalties imposed pursuant to Article 19b.”

- 4) after Article 19 Article 19a and Article 19b shall be added:

“Article 19a. 1. The cinema operator shall provide the Institute with:

- 1) daily data on the number of viewers, the number of tickets sold and accepted identification marks as well as revenue on ticket sales for each film shown on a given day;
- 2) monthly data on revenue on showing films and commercials at the cinema.

2. If the entity operates more than one cinema, it shall provide the Institute with the data referred to in Section 1 separately for each cinema.

3. The data referred to in Section 1:

- 1) item 1 shall be provided twice a week: on the first day which is not a holiday after each Sunday - for Friday, Saturday and Sunday, and on a day that is not a holiday preceding each Saturday - for Monday, Tuesday, Wednesday and Thursday,
 - 2) item 2 shall be provided on the first day of the month which is not a holiday, following the month which it refers to

- via the ICT system using electronic documents within the meaning of Article 3 (2) of the Act of 17 February 2005 on computerization of the activities of entities performing public tasks (Journal of Laws of 2017, item 570 and Journal of Laws of 2018, item 1000, 1544 and 1669) or by means of an electronic form provided on the website of the Institute in the Public Information Bulletin.

4. The Minister shall determine by virtue of the regulation:

- 1) the electronic format for the provision of the data referred to in Section 1,
 - 2) templates of forms used to provide the Institute with the data referred to in Section 1, along with explanations on how to fill them in

- having regard to the need to simplify, streamline and harmonize the data provision process.

- Article 19b. 1. An entity running a cinema that shall not provide the data referred to in Article 19a, or has failed to provide it on time – shall be subject to a fine of PLN 1,000 to PLN 100,000.

2. The financial penalty referred to in Section 1 shall be imposed by virtue of a decision of the Director.

3. When determining the amount of fines, the Director shall take into account previous violations of the data provision obligations by the entity running a cinema, the scope and type of data not provided or not provided on time, and the scale of the activity carried out by the entity.

4. The fine shall be paid to the bank account of the Institute.

5. The fine shall be paid within 14 days from the date on which the decision to impose the penalty became final.

6. The provisions of Chapter IVa of the Act of 14 June 1960 - the Code of Administrative Procedure (Journal of Laws of 2018, item 2096) shall apply to the fines.

7. The Institute shall be the creditor of the liabilities due to the fines referred to in Section 1 within the meaning of the provisions on enforcement proceedings in administration.

8. The minister shall be a higher-level body competent to deal with a complaint against the creditor's order for the liabilities due to fines as referred to in Section 1."

Article 33. 1. In 2019-2027, the minimum limit of state budget expenditure being the financial result of the Act shall be PLN 100,000 thousand, while in 2018-2027 the maximum limit of state budget expenditure being the financial result of the Act shall be:

- 1) 2018 - PLN 50,000 thousand;
- 2) 2019 - PLN 210,738 thousand;
- 3) 2020 - PLN 216,006 thousand;
- 4) 2021 - PLN 221,406 thousand;
- 5) 2022 - PLN 226,940 thousand;
- 6) 2023 - PLN 232,614 thousand;
- 7) 2024 - PLN 238,430 thousand;
- 8) 2025 - PLN 244,390 thousand;
- 9) 2026 - PLN 250,500 thousand;
- 10) 2027 - PLN 265,762 thousand.

2. Should the maximum limit for expenditure referred to in Section 1 be exceeded or threatened to be exceeded, a correction mechanism shall be applied consisting in limiting the expenditure related to the Institute's operating costs.

3. The minister competent for culture and protection of national heritage shall be the competent authority to monitor the use of the expenditure limit referred to in Section 1, and the implementation of the correction mechanism referred to in Section 2.

Article 34. The Act of 16 July 1987 on State Film Institutions (Journal of Laws of 2017, item 2006) shall be repealed.

Article 35. The Act shall become effective after one month from the date of the publication hereof, with the exception of the provisions of Article 32 (3) (b) and Article 32 (4) which shall become effective after 12 months from the date of the publication hereof.

The President of the Republic of Poland *A. Duda*