VERŻJONI ELETTRONIKA



**L.N. 47 of 2015**

# MALTA FILM COMMISSION ACT (CAP. 478)

## Financial Incentives for the Audiovisual Industry Regulations, 2015

IN exercise of the powers conferred by articles 26(1) and 33 of the Malta Film Commission Act, the Minister for Tourism has made the following regulations:-

Citation and commencement.

**1.** (1) The title of these regulations is the Financial Incentives for the Audiovisual Industry Regulations, 2015.

(2) These regulations shall be deemed to come into force on the 1st January 2014.

Interpretation.

**2.** (1) In these regulations, unless the context otherwise requires:

"the Act" means the Malta Film Commission Act; Cap. 478.

"certificate of provisional approval" means the certificate issued in terms of regulation 7, in the form set out in the First Schedule. Each certificate may also contain certain specific additional conditions particular to the individual applying production;

"the Commission" means the Malta Film Commission;

"the Commissioner" means the Film Commissioner;

"completion" means the termination of filming activity in Malta of an audiovisual production and "completed" shall be construed accordingly;

"co-production" means a qualifying production which is the subject of a co-production agreement between two or more co-producers;

"cultural product" means an audiovisual production in respect of which the Commissioner has established that the content of the audiovisual production is cultural according to the criteria set out in the Second Schedule and, or the Third Schedule (applicable to difficult audiovisual works);

"eligible expenditure" means the items of expenditure incurred

by the qualifying company in relation to the qualifying production that are eligible for the purposes of calculation of the amount to be granted as a financial incentive in accordance with regulation 5;

"EU Member State" means a member state of the European Union as defined in the European Union Act;

Cap. 460.

"final approval" means the approval granted in terms of regulation 8;

"the financial incentive" means the financial benefit provided for in regulation 5;

"Guidelines" means the guidelines that may be issued by the Commission from time to time;

"difficult audiovisual works" means an audiovisual production in respect of which the Commissioner has established that the content of the audiovisual production is a difficult audiovisual work according to the criteria set out in the Third Schedule (Cultural Test);

"the Minister" means the Minister responsible for the film industry;

"principal photography" means the filming of major or significant components of an audiovisual production which involves lead actors;

"qualifying company" means a qualifying company as defined in article 25 of the Act and which meets the conditions established by regulation 4 and having a minimum spend as set out in the Guidelines;

"qualifying production" means a qualifying production as defined in article 25 of the Act and which meets the conditions established by regulation 3;

"State Aid Monitoring Board" means the State Aid Monitoring Board constituted under article 57 of the Business Promotion Act;

Cap. 325.

"undertaking" means an entity carrying out an economy activity.

(2) Words and expressions which are also used in the Act shall, in these regulations, have the same meanings as in the Act.

Definition of qualifying production.

**3.** (1) An audiovisual production shall be considered a "qualifying production" for the purpose of these regulations if the audiovisual work:

(a) is a cultural product produced wholly or partially in Malta on a commercial basis with a view to profit; and

(b) is produced wholly or principally for exhibition to the public in cinemas or through broadcasting; and

(c) makes a valid contribution to the expression of creativity and culture through the development of production capability skills in the media of film and television; and

(d) is based on a format approved by the Commissioner.

(2) The criteria set out in sub-regulation (1) shall be applied without prejudice to the conditions established in article 25 of the Act and the Schedule to the Act, and in accordance with the Second Schedule (Cultural Test) to these regulations and the Guidelines.

(3) The criteria set out in sub-regulation (1) shall be applied without prejudice to the conditions established in article 25 of the Act and the Schedule to the Act, and in accordance with the Third Schedule (Cultural Test - Difficult Audiovisual Works) to these regulations and the Guidelines applicable to "Difficult Audiovisual Works".

Qualifying company.

**4.** (1) The qualifying company shall be the entity responsible for all activities involved in making a qualifying production and having access to full financial information for the total production worldwide, which can be made available to the Commissioner upon the latter’s request:

Provided that there shall be only one qualifying company with respect to a given qualifying production.

(2) Where the qualifying production is a co-production, the co-producers shall appoint one of the co-producers amongst them to act as the qualifying company in respect of the qualifying production for the purpose of these regulations and the appointed co-producer shall be deemed to be the entity responsible for all activities involved in making the qualifying production:

Provided that:

(a) the financial incentive granted shall be apportioned between the co-producers as agreed between them, or in the absence of any agreement to that effect, in proportion to their share in the overall budget of the qualifying production; and

(b) the co-producers shall be jointly and severally liable

for their obligations under the Act and these regulations.

Financial incentives.

Cap. 123.

**5.** (1) A rebate of up to twenty-seven percent of eligible expenditure may be given as a cash grant, which shall be exempt for the purpose of the Income Tax Act, to qualifying companies, upon completion of a qualifying production, in accordance with these regulations and the Guidelines:

Provided that the said eligible expenditure shall not constitute an eligible expense for State aid under any other law:

Provided further that the total State aid from which a qualifying production may benefit under this regulation or any other source shall not exceed the ceiling provided for in the Guidelines.

(2) The eligible expenditure qualifying for the financial incentive shall be established by the Commissioner in accordance with the Guidelines, provided that the eligible expenditure shall not exceed eighty percent of the overall budget of the qualifying production.

(3) The level of the financial incentive shall be determined by the Commission in accordance with article 26 of the Act, the provisions of these regulations and the Guidelines.

(4) The aggregate amount of financial incentives that may be granted under these regulations in a given financial year in terms of the Constitution shall not exceed the amount specifically appropriated in Government's financial estimates for that particular financial year.

(5) Notwithstanding the provisions of sub-regulation (1), rebates for difficult audiovisual works may amount to a cash grant of up to thirty-two percent of eligible expenditure, and shall be exempted from the provisions of the provisos to the said sub-regulation (1).

Application for provisional approval.

**6.** (1) The application for the financial incentive shall be submitted to the Commissioner by the qualifying company or its local branch or agent in accordance with the Guidelines.

(2) The application mentioned in sub-regulation (1) shall be submitted together with such documentation and information as may be required by the Commissioner, and shall include the documents and information listed in the Guidelines.

(3) Subject to the provisions of regulation 10, the application must be submitted at least thirty working days before commencement of the principal photography in Malta or in any other EU Member

State.

Certificate of provisional approval.

**7.** (1) Following the receipt of the application made in accordance with regulation 6, the Commissioner shall make a recommendation in writing to the Commission regarding the level of the financial incentive to be granted to the qualifying company, stating that the production is a cultural production and meets the requirements of a qualifying production, and shall forward to the Commission any documentation or information furnished by the applicant as the Commissioner may require:

Provided that where the Commissioner finds that the application is not made by or on behalf of an entity that is a qualifying company and, or in respect of a qualifying production, it shall inform the applicant that the application has been rejected and the Commissioner shall not make such recommendation.

(2) Following the Commission's determination of the level of the financial incentive to be granted to the qualifying company, which shall not exceed the amount recommended in terms of sub-regulation (1), the Commissioner shall issue a certificate of provisional approval, in the form set out in the First Schedule, to the qualifying company which shall state the percentage of expenditure rebated to the production concerned and the conditions that must be met in order to obtain the final approval under regulation 8:

Provided that in case of any changes to the application presented for provisional approval and due to such changes the budget differs by 10% or more from the original estimations, an application shall be re-submitted to the Commissioner for final approval.

(3) The Commissioner shall complete an assessment of this application within twenty working days excluding any period during which the Commissioner is awaiting additional information necessary for the completion of the application.

(4) On final approval, the qualifying company shall be requested to sign an agreement detailing the terms and conditions as specified in the certificate which is to be signed by the qualifying company and the Commissioner prior to the commencement of the principal photography in Malta.

Final approval.

**8.** (1) Upon completion of the qualifying production in respect of which a certificate of provisional approval was issued in accordance with regulation 7, and on which an agreement was signed and no later than six months after completion thereof, the qualifying company or its local branch or agent shall present its account records,

invoices, receipts and final production expenditure in Malta which will be sent for audit.

(2) The submission mentioned in sub-regulation (1) shall be submitted together with such documentation and information as may be required by the Commissioner, and shall include the documents and information listed in the Guidelines.

(3) Following receipt of the final submission made in accordance with sub-regulations (1) and (2), the Commissioner shall make a recommendation in writing to the Commission regarding the amount of the financial incentive to be granted to the qualifying company and shall forward to the Commission any documentation or information furnished by the applicant as the Commission may require.

(4) The Commission shall inform the Commissioner in writing of its decision on the amount of the financial incentive to be granted to the qualifying company:

Provided that the amount of the financial incentive determined by the Commission shall not exceed the amount recommended by the Commissioner in terms of sub-regulation (3).

(5) The Commissioner shall make the necessary arrangements for the implementation of the Commission's decision on the amount of the financial incentive to be granted to the qualifying company.

Significant budget changes.

**9.** (1) If the final overall budget and overall qualifying expenditure exceed the estimated overall budget and estimated qualifying expenditure (as provided on the final application and on which the rebate was calculated) as indicated in the provisional certificate and final agreement, the final incentive will be granted on not more than ten percent on the overall qualifying expenditure.

(2) If no application has been re-submitted and the Commissioner finds that the final overall budget and overall qualifying expenditure exceed the estimated overall budget and estimated eligible qualifying expenditure (as provided on the final application and on which the rebate was calculated) as indicated in the provisional certificate and final agreement, the final incentive will be granted on not more than ten percent on the overall qualifying expenditure.

(3) For the purpose of this regulation, if further allowances are made, financial incentives will be granted at the discretion of the Commissioner.

Time of initiation of production.

**10.** These regulations shall apply to audiovisual productions in respect of which an application for provisional approval is made in accordance with regulation 6 before 31 December 2018.

Reporting requirements.

**11.** The qualifying company or its local branch or agent shall provide the Commissioner with any information and documentation either on the initiative of the qualifying company or its local branch or that of the agent himself or upon the request of the Commissioner for the exercise of his functions and those of the Commission for the purpose of these regulations:

Provided that the Commissioner may specify the on-going reporting requirements of the qualifying company or its local branch or that of its agent in the Guidelines.

Confidentiality.

**12.** Any information furnished by the qualifying company or its local branch or agent shall at all times be treated as confidential and shall be used solely by either the Commission or the Commissioner, or both, for the purpose of carrying out their respective functions for the purpose of these regulations:

Provided that the information furnished by the qualifying company or by its local branch or agent may be disclosed if and to the extent required by or pursuant to any enactment, including but not limited to fiscal legislation, or with the permission in writing of the legal or natural person providing such information.

Obligations of the qualifying company.

**13.** (1) The qualifying company, including its local branch or agent, if any, shall ensure compliance with the conditions and requirements set out in the certificate of provisional approval and, or the signed agreement and in the Guidelines.

(2) If the qualifying company or its local branch or agent, if any, fails to meet any of the conditions and requirements as referred to in sub-regulation (1), the Commissioner may withdraw its provisional or final approval for the grant of the financial incentive. If the qualifying company or its local branch or agent has already received the financial incentive and the Commissioner establishes that the conditions and requirements as referred to in sub-regulation (1) have not been complied with, it shall refund to the Commissioner the amount of the financial incentive received upon the Commissioner's request.

Examination of records.

**14.** Where the financial incentive has been provided in terms of these regulations to an undertaking, the Commissioner may -

(a) from time to time make or cause to be made such examination of books, accounts, documents, premises and all

other things and matters of that undertaking, its local branch or agency, as the case may be, as may be necessary to ensure that the provisions of these regulations and of the Guidelines, and the conditions and requirements set out in the certificate of provisional approval, and on which an agreement was signed, are complied with; and

(b) request such financial statements from the undertaking, its local branch or agency, as the case may be and as may be required.

Database of assistance provided.

**15.** The Commissioner shall keep, for a minimum of ten years, a database of all the financial incentives provided to, or claimed by, undertakings in terms of these regulations in order to enable the Commission to -

(a) verify whether the provisions of the Act and of these regulations have been complied with; and

(b) provide the State Aid Monitoring Board with such information as it may require.

Revocation of the Financial Incentives for the Audiovisual Industry Regulations, 2008.

**16.** The Financial Incentives for the Audiovisual Industry Regulations, 2008, are hereby revoked, without prejudice to anything done or omitted to be done thereunder.

## FIRST SCHEDULE

(Regulation 7)

### Certificate of Provisional Approval

Under Part V of the Malta Film Commission Act (Cap. 478) and in accordance with the Financial Incentives for the Audiovisual Industry Regulations, and the Guidelines established by the Commissioner; and

In respect of the application received by the Commissioner on the [date] by [name of qualifying company];

The Commissioner hereby certifies that in relation to [name of the production applying for the cash rebate], the said audiovisual production is regarded as a qualifying production for the purposes of the said Part V of the Malta Film Commission Act, and shall be granted a cash rebate equivalent to [percentage to be rebated to the production] of the total qualifying expenditure, currently estimated at [total amount of qualifying expenditure], subject to the following conditions:

1. This certificate is issued strictly on the basis of the information supplied by the qualifying company in the course of the application process.

2. Any change of substance in the information originally supplied to the Commissioner that may arise as the project progresses must be notified in writing to the Commissioner in advance of the proposed change being effected, or as soon as the change comes to notice.

3. Failure to notify the Commissioner accordingly will be regarded as a breach of the conditions of this certificate.

4. (1) On completion of the qualifying production in Malta, the qualifying company is to submit the following documents to the Commissioner:

(a) an immediate written notification that the filming activity in Malta of the audiovisual production for which a benefit is being sought is completed;

(b) full details of the qualifying company and of any beneficiary of the cash rebate;

(c) accounts detailing the amounts spent on each

individual element of the project for which a benefit is being sought, including expenditure on the direct employment of Maltese and EU/EEA nationals and on eligible goods and services;

(d) full final cast and crew list (distinguishing between the local cast and crew) submitted with the following information:

(i) Nationality/residency

(ii) ID/Passport number

(iii) Contract duration

(iv) Role in the production

(e) final list of locations used (with address).

(2) The accounts must include the following:

(a) a 'top sheet' production expenditure summaries covering all expenditure in Malta and the entire production expenditure on the film;

(b) a detailed analysis of relevant labour costs (including gross full-time and part-time wages, withheld tax, Social Security contributions, and monies paid to employees employed directly on a contract of service);

(c) all accounts are to be presented net of Value Added Tax and all account entries are to be certified by proper receipts that enable the recipient of the payment to be identified;

(d) copies of receipts from the pertinent fiscal authorities and companies showing that the amounts were already paid to such authorities and companies;

(e) the qualifying company is to provide to the satisfaction of the Commissioner details of the eligible expenditure, including invoices and receipts of the pertinent qualifying production.

5. Following the submission of a final accounts records, invoices, receipts and final production expenditure in Malta, the qualifying company is to grant access to representatives of the Commissioner to audit the accounts pertaining to the audiovisual production which a benefit is being sought.

6. Should there be deemed to be a significant difference where the final overall budget exceeds the estimated overall budget as indicated in the application by more than ten percent (and on which the rebate was calculated as per provisional certificate and final agreement) a new application will need to be re-submitted. Should further allowances be made, this will be made at the discretion of the Commissioner.

7. On receipt of the audit report and upon final review by the Commissioner, the cash rebate shall be forwarded to the qualifying production no later than five months from the date of receipt of the presented production expenditure in Malta.

8. The cost of the review audit together with administrative fees will be borne by the applicant. It shall be considered an eligible expense and will be deducted from the final rebate. The cost of the review audits will depend on the overall 'Malta Spend', as follows:

| Malta Spend | Audit/Administrative Fee |
|---|---|
| Under €500,000 | € 2,000 |
| Up to €1 million | € 3,000 |
| Between €1 and €10 million | € 4,000 |
| Over €10 million | € 6,000 |

9. In case additional information in respect of an audit is required, processing of the audit will not be progressed until the relevant information has been received.

Obligations

10 The qualifying company shall ensure that the filming activity and all other activities related to the film are conducted in accordance with the Laws of Malta. The Courts of the Republic of Malta shall have jurisdiction on any dispute.

11. The qualifying company is to ensure that the recruitment of personnel in Malta, including recruitment of extra talent and the engagement of services in Malta, is conducted fairly and without discrimination of any form. Resource lists of experienced crew members, extra talent and service providers are available from the Malta Film Commission.

12. Prior to the commencement of filming in Malta, the qualifying company will commit to engage local personnel with the production and provide the names, to the Commissioner, for:

(a) a minimum of 1 Maltese crew member above the line

(b) a minimum of 2 Maltese trainees above the line

(c) a minimum of 3 Maltese trainees below the line.

13. During production the Commissioner reserves the right to conduct a 5-minute interview with the main actors / actresses, the director and producers as testimonials which will be used for publicity after release of film. These will be used to promote the Maltese film industry.

14. The qualifying company is to include the credits in the language of the film production 'Produced with the support of the financial incentives provided by the Government of Malta' and 'Filmed on location in Malta' as the case may be; these credits are to be located in a prominent position in the closing credits, immediately after the cast and crew credits. The logo of the Malta Film Commission must also be featured.

15. Prior to the payment of the cash rebate and following completion of the qualifying production, the qualifying company is to provide the Commissioner with an electronic press kit (EPK), which includes photos, footage of behind-the-scenes, clips from the actual shoot, and the trailer to be used for international marketing and promotional purposes showcasing Malta. These will be used to promote the Maltese film industry.

16. Prior to the payment of the cash rebate and following completion of the qualifying production, the qualifying company is to provide the Commissioner, a number of props, costumes, storyboards etc to be kept as a record of the production to promote Malta as a film location. The Film Commission will also be given right of first refusal to acquire any sets, props, costumes, and any other material related to the film.

17. Prior to the payment of the cash rebate and following completion of the qualifying production, the qualifying company is to provide the Commissioner with video clips of the principal filmmakers, namely the director and the producers, describing their filming experience in Malta. The Malta Film Commission and other Government entities are given full rights to use these clips for publicity purposes after the release of the film.

18. Following completion of the qualifying production, the qualifying company is to provide the Commissioner with two copies of the film in HD format and two copies in DVD format.

SECOND SCHEDULE

(Regulation 3)

Cultural Test

'Criteria for the determination of the cultural test of an audiovisual production'

| | |
|---|---|
| PRODUCTION NAME: | |
| PRODUCTION COMPANY: | |
| COUNTRY OF APPLICANT COMPANY: | |
| TOTAL BUDGET: | |
| TYPE OF PRODUCTION: | |
| COMPLETE PROVISIONAL APPLICATION SUBMITTED ON: | |
| SIGNED: | |
| DATE: | |

A minimum of:

(i) 40 points in aggregate; and

(ii) 20 points under Section A below; and

(iii) 10 points in each of the Sections B and C below,

is required for an audiovisual production to meet the requirements set out in regulation 3(1)(a) of these regulations.

SECTION A: Cultural Content

| | | Max Points | Total obtained |
|---|---|---|---|
| 1. | Productions featuring a Maltese, European or Mediterranean story (factual or fictional) | 4 | |
| 2. | Productions featuring a Maltese, European or Mediterranean setting (factual or fictional) | 8 | |
| 3. | Storyline or underlying material is based on literary material | 2 | |
| 4. | Storyline or underlying material is a part of or derived from Maltese, European or Mediterranean culture and / or heritage | 4 | |

| | | | |
|---|---|---|---|
| 5. | Productions featuring Maltese or European characters | 2 | |
| 6. | Storyline or underlying material deals with contemporary or historical Maltese, European or Mediterranean issues of political, religious and/or social relevance | 3 | |
| 7. | Storyline or underlying material contains reference to a contemporary or historical personality (eg: Alexander the Great) or to a fictional character in cultural history (eg: Zeus) | 2 | |
| 8. | Storyline or underlying material contains reference to a universally significant and relevant event - fictional or factual | 2 | |
| 9. | Use of Malta's diverse architectural, archaeological and natural heritage to reflect the European and Mediterranean cultural context | 3 | |
| 10. | Productions featuring at least one European language | 3 | |
| 11. | Use of Maltese language in the dialogue of the production in a manner which contributes to the development of the storyline | 2 | |
| 12. | Use of Malta's cultural subjects and landmarks that allow for them to feature in the setting of the production | 2 | |
| 13. | Productions with compelling dramaturgical script requirements that cannot logistically, creatively or technically be satisfied in any other EU Member State | 3 | |
| | Total obtained for Section A (Cultural Content): | 40 | |

Malta Film Commission assessment of specific scaled criteria:

Productions featuring a Maltese, European or Mediterranean story (factual or fictional) as referred to in item 1 above:

| *Entire story* | *Major element/s* | *Critical element/s* | *Minor element/s* |
|---|---|---|---|
| 4 | 3 | 2 | 1 |

Productions featuring a Maltese, European or Mediterranean

setting (factual or fictional) as referred to in item 2 above:

| *Wholly set* | *Over half is set* | *Half set* | *Partially set* |
|---|---|---|---|
| 8 | 7 | 6 | 5 |

Storyline or underlying material is a part of or derived from Maltese, European or Mediterranean culture and / or heritage, as referred to in item 4 above:

| *Fully derived* | *Partially derived* | *Relevant to* | *Related to* |
|---|---|---|---|
| 4 | 3 | 2 | 1 |

Storyline or underlying material deals with contemporary or historical Maltese, European or Mediterranean issues of political, religious and/or social relevance, as referred to in item 6 above:

| *Focal issue* | *Central issue* | *Present issue* |
|---|---|---|
| 3 | 2 | 1 |

Use of Malta's diverse architectural, archaeological and natural heritage to reflect the European and Mediterranean cultural context, as referred to in item 9 above:

| *Featured in major capacity* | *Featured in minor capacity* | *Featured once* |
|---|---|---|
| 3 | 2 | 1 |

Productions featuring at least one European language, as referred to in item 10 above:

| *Over 50% of dialogue* | *Under 50% of dialogue* | *Minimal dialogue* |
|---|---|---|
| 3 | 2 | 1 |

SECTION B: Creative Contribution

| (i) Productions with guaranteed, proven or intended theatrical or television distribution in at least three EU Member States | Points | Total obtained |
|---|---|---|
| (Tick appropriate box) | | |
| 3 - 4 EU Member States | 6 | |
| 5 - 7 EU Member States | 8 | |
| 8 - 10 EU Member States | 10 | |
| 11 - 13 EU Member States | 12 | |
| 14 - 16 EU Member States | 14 | |
| 17 - 19 EU Member States | 16 | |

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| | | |
|---|---|---|
| 20 - 22 EU Member States | 18 | |
| 24 or more EU Member States | 20 | |
| SUB-TOTAL | 20 | |

| (ii) Creative and technical contributors (crew) from Malta or the EEA (nationality) in the following areas at HOD or assistant level where applicable | Points | Total obtained |
|---|---|---|
| - Director | 1 | |
| - Scripwriter | 1 | |
| - Producer / co-producer | 1 | |
| - Composer | 1 | |
| - Director of photography | 1 | |
| - Editor | 1 | |
| - Costume designer | 1 | |
| - Production designer | 1 | |
| - Make-up artist | 1 | |
| - Art director | 1 | |
| - Set decorator | 1 | |
| - Line producer / Unit production manager | 1 | |
| | | |
| *SUB-TOTAL* | 12 | |
| Total obtained for Section B (Creative Contribution): | 32 | |

SECTION C: Use of Malta's Cultural Resources

| | Max Points | Total obtained |
|---|---|---|
| (i) Productions with preparation and pre-production in Malta | 6 | |
| (ii) Productions with location or studio shooting in Malta | 14 | |
| (iii) Productions with post-production in Malta | 8 | |
| Total obtained for Section C (Use of Malta's Cultural Resource: | 28 | |

MFC assessment of specific scaled criteria:

Productions with preparation and pre-production in Malta, as referred to in item (i) above:

| 3 weeks + 6 | 2 weeks + 5 | 1 week + 4 | 5 days + 3 | 4 days + 2 | 3 days 1 |
|---|---|---|---|---|---|

Productions with location or studio shooting in Malta, as referred to in item (ii) above:

| 50% + 14 | 40% + 12 | 30% + 10 | 20% + 8 | 10% + 6 | 5% + 5 |
|---|---|---|---|---|---|

NOTE: % = of script pages OR shooting days

Productions with post-production in Malta, as referred to in item (iii) above:

| 50% + 8 | 25% + 6 | 15% + 4 | 5% + 2 |
|---|---|---|---|

POINTS OBTAINED

Section A: out of max 40 [Minimum must be 20]

Section B: out of max 32 [Minimum must be 10]

Section C: out of max 28 [Minimum must be 10]

TOTAL:

According to the guidelines, the total of points allow the following percentage of cash rebate to be granted %

| POINTS OBTAINED IN CULTURAL TEST | PERCENTAGE OF REBATE |
|---|---|
| 40 – 45 | 20% |
| 46 – 50 | 21% |
| 51 – 55 | 22% |
| 56 – 60 | 23% |
| 61 – 65 | 24% |
| 66 + | 25% |
| | +2% (see below criteria) |

The Commissioner has the discretion to award an additional 2% based on the Maltese cultural element.

OTHER NOTES:

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THIRD SCHEDULE

(Regulation 3)

Cultural Test - Difficult Audiovisual Works

'Criteria for the determination of the cultural test of an audiovisual production that is considered an 'difficult audiovisual work'

| | |
|---|---|
| PRODUCTION NAME: | |
| PRODUCTION COMPANY: | |
| COUNTRY OF APPLICANT COMPANY: | |
| TOTAL BUDGET: | |
| TYPE OF PRODUCTION: | |
| COMPLETE PROVISIONAL APPLICATION SUBMITTED ON: | |
| SIGNED: | |
| DATE: | |

A minimum of:

(i) 50 points in aggregate; and

(ii) 20 points under Section A below; and

(iii) 10 points in Section B

(iv) 10 points in Section C

(v) 10 points in Section D

is required for an audiovisual production to meet the requirements set out in regulation 3(1)(a) of these regulations.

SECTION A - Cultural Content

| | | Max Points | Total obtained |
|---|---|---|---|
| 1. | Productions featuring a Maltese, European or Mediterranean story (factual or fictional) | 4 | |
| 2. | Productions featuring a Maltese, European or Mediterranean setting (factual or fictional) | 4 | |

| | | | |
|---|---|---|---|
| 3. | Storyline or underlying material is based on literary material | 2 | |
| 4. | Storyline or underlying material is a part of or derived from Maltese, European or Mediterranean culture and / or heritage | 4 | |
| 5. | Productions featuring Maltese or European characters | 2 | |
| 6. | Storyline or underlying material deals with contemporary or historical Maltese, European or Mediterranean issues of political, religious and/or social relevance | 3 | |
| 7. | Storyline or underlying material contains reference to a contemporary or historical personality (eg: Alexander the Great) or to a fictional character in cultural history (eg: Zeus) | 2 | |
| 8. | Storyline or underlying material contains reference to a universally significant and relevant event - fictional or factual | 2 | |
| 9. | Use of Malta's diverse architectural, archaeological and natural heritage to reflect the European and Mediterranean cultural context | 3 | |
| 10. | Productions featuring at least one European language | 3 | |
| 11. | Use of Maltese language in the dialogue of the production in a manner which contributes to the development of the storyline | 4 | |
| 12. | Use of Malta's cultural subjects and landmarks that allow for them to feature in the setting of the production | 4 | |
| 13. | Productions with compelling dramaturgical script requirements that cannot logistically, creatively or technically be satisfied in any other EU Member State | 3 | |
| | Total obtained for Section A (Cultural Content): | 40 | |

MFC assessment of specific scaled criteria:

Productions featuring a Maltese, European or Mediterranean

story (factual or fictional) as referred to in item 1 above:

| *Entire story* | *Major element/s* | *Critical element/s* | *Minor element/s* |
|---|---|---|---|
| 4 | 3 | 2 | 1 |

Productions featuring a Maltese, European or Mediterranean setting (factual or fictional) as referred to in item 2 above:

| *Wholly set* | *Over half is set* | *Half set* | *Partially set* |
|---|---|---|---|
| 4 | 3 | 2 | 1 |

Storyline or underlying material is a part of or derived from Maltese, European or Mediterranean culture and / or heritage, as referred to in item 4 above:

| *Fully derived* | *Partially derived* | *Relevant to* | *Related to* |
|---|---|---|---|
| 4 | 3 | 2 | 1 |

Storyline or underlying material deals with contemporary or historical Maltese, European or Mediterranean issues of political, religious and/or social relevance, as referred to in item 6 above:

| *Focal issue* | *Central issue* | *Present issue* |
|---|---|---|
| 3 | 2 | 1 |

Use of Malta's diverse architectural, archaeological and natural heritage to reflect the European and Mediterranean cultural context, as referred to in item 9 above:

| *Featured in major capacity* | *Featured in minor capacity* | *Featured once* |
|---|---|---|
| 3 | 2 | 1 |

Productions featuring at least one European language, as referred to in item 10 above:

| *Over 50% of dialogue* | *Under 50% of dialogue* | *Minimal dialogue* |
|---|---|---|
| 3 | 2 | 1 |

SECTION B: Creative Contribution

| (i) Productions with proven or intended theatrical or television distribution in at least three EU Member States | Points | Total obtained |
|---|---|---|
| (Tick appropriate box) | | |

| | | |
|---|---|---|
| 17 + EU Member States | 1 | |
| 14 - 16 EU Member States | 3 | |
| 11 - 13 EU Member States | 5 | |
| 8 - 10 EU Member States | 7 | |
| 5 - 7 EU Member States | 9 | |
| 3 - 4 EU Member States | 11 | |
| 1 - 3 EU Member States | 13 | |
| Limited territory, population or language area | 14 | |
| SUB-TOTAL | 14 | |

| (ii) Creative and technical contributors (crew) from Malta or the EEA (nationality) in the following areas at HOD or assistant level where applicable | Points | Total obtained |
|---|---|---|
| - Director | 1 | |
| - Scripwriter | 1 | |
| - Producer / co-producer | 1 | |
| - Composer | 1 | |
| - Director of photography | 1 | |
| - Editor | 1 | |
| - Costume designer | 1 | |
| - Production designer | 1 | |
| - Make-up artist | 1 | |
| - Art director | 1 | |
| - Set decorator | 1 | |
| - Line producer / Unit production manager | 1 | |
| | | |
| *SUB-TOTAL* | 12 | |
| Total obtained for Section B (Creative Contribution): | 26 | |

SECTION C: Use of Malta's Cultural Resources

| | Max Points | Total obtained |
|---|---|---|
| (i) Productions with preparation and pre-production in Malta | 2 | |
| (ii) Productions with location or studio shooting in Malta | 6 | |
| (iii) Productions with post-production in Malta | 6 | |

| | | |
|---|---|---|
| Total obtained for Section C (Use of Malta's Cultural Resource: | 14 | |

MFC assessment of specific scaled criteria:

Productions with location or studio shooting in Malta, as referred to in item (ii) above:

| | | | | | |
|---|---|---|---|---|---|
| 50% + 6 | 40% + 5 | 30% + 4 | 20% + 3 | 10% + 2 | 5% + 1 |

NOTE: % = of script pages OR shooting days

Productions with post-production in Malta, as referred to in item (iii) above:

| | | | |
|---|---|---|---|
| 50% + 6 | 25% + 4 | 15% + 2 | 5% + 1 |

SECTION D: Difficult Audiovisual Work

| | Max points | Total obtained |
|---|---|---|
| (i) Works whose sole original version is in the Maltese language with a limited distribution territory, population or language area | 6 | |
| (ii) Involves a first-time Maltese director | 2 | |
| (iii) Involves a first-time Maltese producer | 2 | |
| (iv) Is considered a low budget production | 6 | |
| (v) Commercially difficult work (i.e. little if any prospect of commercial success because of its experimental nature or because it represents a very high level of creative risk) | 4 | |
| Total obtained for Section D (Difficult Audiovisual Work): | 20 | |

MFC assessment of specific scaled criteria:

Is considered a low budget production, as referred to in item (iv) above:

| | | | |
|---|---|---|---|
| Under €200,000 6 | Under €500,000 4 | Under €1 million 2 | Under €2 million 1 |

POINTS OBTAINED

Section A: out of max 40 [Minimum must be 20]

Section B: out of max 26 [Minimum must be 10]

Section C: out of max 14 [Minimum must be 10]

Section D: out of max 20 [Minimum must be 10]

TOTAL:

According to the guidelines, the total of points allow the following percentage of cash rebate to be granted %

| Points obtained in Cultural Test | Rebate Percentage |
|---|---|
| 50 – 59 | 20% |
| 60 – 69 | 24% |
| 70 – 79 | 26% |
| 80 – 85 | 28% |
| 85 + | 30% |
| | +2% (see below criteria) |

The Commissioner has the discretion to award an additional 2% based on the Maltese cultural element.

OTHER NOTES:

VERŻJONI ELETTRONIKA

**Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta —** ***Published by the Department of Information (doi.gov.mt) — Valletta***
**Mitbugħ fl-Istamperija tal-Gvern fuq karta riċiklata —** ***Printed at the Government Printing Press on recycled paper***

**Prezz/*Price***
**€2.16**