

Draft

Act on the contribution of on-demand streaming service providers to the promotion of Icelandic culture and language

From the Minister of Culture and Commerce.

Chapter I. Objectives, scope and definitions.

1. gr. *Aim.*

The aim of the Act is to advance Icelandic culture and Icelandic language by promoting and supporting the production of films, television series and documentaries in Icelandic, or otherwise having Icelandic cultural and social significance.

2. gr. *Scope.*

This Act applies to on-demand streaming service providers established in Icelandic jurisdiction.

The Act also applies to on-demand streaming service providers who supply video-on-demand services to the targeted general audience in this country but are established in the jurisdiction of another EEA State.

This Act does not apply to on-demand streaming service providers with a low turnover or a low audience, pursuant to rules created by the Minister.

This Act only applies to on-demand streaming service providers supplying films, original television drama series and documentaries.

This Act does not apply to Ríkisútvarpið ohf. or other media covered by legislation on public service media in the EEA State of establishment.

This Act does not apply to video-sharing services or video-sharing platforms, on the condition that they do not supply material subject to editorial control.

3. gr. *Definition of terms.*

For the purposes of this Act the following shall have the meaning as set out below:

1. *On-demand streaming service provider*: Media service provider subject to editorial control over content where users can access video-on-demand content at their convenience and download or stream the content on line.

2. *Cultural levy*: Financial contribution to the Icelandic Film Fund or direct investment in domestic content within the meaning of this Act.

3. *Direct investment* means investment in the production, co-production and the acquisition of rights in new films, television series or documentaries. Investment in the acquisition of rights in works older than three years is not considered direct investment within the meaning of this Act. Costs related to news, the broadcasting of sports events, games, advertising, teletext services or teleshopping is not considered direct investment within the meaning of this Act.

4. *Domestic content* within the meaning of this Act refers to new, European films, television drama or documentaries having Icelandic cultural and social significance where at least 75% of the content is in Icelandic and the content fulfils one of the following requirements.

a) at least 50% of the production costs is spent in Iceland.

b) at least 50% of the filming of the relevant content takes place in Iceland.

5. *Video-on-demand* (non-linear video): Services provided by a media service provider, irrespective of the device used to receive the content, and irrespective of whether the content is made available in return for payment, thus enabling the user to watch entire programmes or parts thereof within a catalogue established by the media service provider at any time and as specifically requested on-demand, *cf.* point 30 of Article 2(1) of the Media Act No 38/2011.

6. *Editorial control*: Control over the selection and organisation of the content provided, *cf.* the definition of the term in Article 2(1) of the Media Act No 38/2011.

7. *Media*: A natural or legal person providing media services on a regular basis, *cf.* the definition of the term in Article 2(1) of the Media Act No 38/2011.

8. *Media service provider*: a natural or legal person operating a media, *cf.* the definition of the term in Article 2(1) of the Media Act No 38/2011.

9. *Audiovisual media service*: A natural or legal person providing audiovisual media services, *cf.* the definition of the term in Article 2(1) of the Media Act No 38/2011.

10. *Audiovisual media service*: A service, the principal purpose, dissociable section or essential functionality of which is the provision of programmes, user-generated content or both to the targeted audience, in order to inform, educate or entertain, where the audiovisual media service does not have editorial responsibility but is responsible for organisation and classification of the content, including by automatic means or algorithms in particular by displaying, tagging and sequencing, *cf.* the definition of the term in Article 2(1) of the Media Act No 38/2011.

Chapter II. Cultural contribution.

Article 4. Cultural levy payment obligation.

An on-demand streaming service provider pursuant to paragraph 1 and 2 of Article 2 shall annually pay a cultural levy at a rate applied to its activities in Iceland. The base to which the calculation of the cultural levy applies is established is the on-demand streaming service provider's annual turnover in the previous calendar year from subscription fees to access on-demand streaming services provided to the targeted general audience in Iceland. Revenues generated by subscription fees to access the services of on-demand streaming providers that only broadcast sports and news programmes, revenues generated by subscription fees to access linear programmes made available through video-on-demand services and revenues from foreign retransmission services are exempt from the obligation.

An on-demand streaming service provider fulfils the obligation pursuant to paragraph 1 through financial contributions to the Icelandic Film Fund amounting to 5 per cent of the base to which the calculation of the cultural levy applies, taking into account paragraph 3, or through direct investment in domestic content within the meaning of this Act.

The percentage of the financial contribution to the Icelandic Film Fund is reduced proportionally to the volume of direct investment in the production of domestic content within the meaning of this Act. The payment obligation to the Icelandic Film Fund ceases when direct investments in the production of domestic content reach 5 per cent of the base to which the calculation of the cultural levy applies pursuant to paragraph 1.

The cost of direct investment in domestic content may be spread over a three-year period provided that the annual average investment reaches 5 per cent of the base to which the calculation of the cultural levy applies for all three years.

The Media Commission may, at the request of the on-demand streaming service provider, make exemptions from the cultural levy payment obligation when the nature or content of the service indicates that fulfilling the obligation is impracticable or unrealistic.

Where an on-demand streaming service provider established within the Icelandic jurisdiction has been obligated to pay a comparable cultural levy in another EEA Member State to which it targets its services, this shall be partly or fully taken into account when determining the cultural levy within the meaning of this Act.

Article 5. Allocation of the cultural levy.

The cultural levy, minus costs arising from administration and supervision, is contributed to a new category of grants to be provided by the Icelandic Film Fund with the aim of supporting the production of films, television series and documentaries in Icelandic, or otherwise having Icelandic cultural and social significance.

The Minister may set out further provisions by amending Regulation No 229/2023 on the Icelandic Film Fund, providing for the new grant category created in the Icelandic Film Fund and ensuring that on-demand streaming service providers paying to the Fund pursuant to this Act are eligible to apply for the allocation of funding from the new grant category, *cf.* paragraph 1, on a non-discriminatory basis.

Chapter III. Registration, notification obligation, reporting and monitoring of implementation.

Article 6. Registration and notification obligation for on-demand streaming service providers.

An on-demand streaming service provider pursuant to Article 2(1) registers its activities with the Media Commission pursuant to Article 14 and 17 of the Media Act.

An on-demand streaming service provider pursuant to Article 2(2) gives notice of its activities to the Media Commission, provided that paragraphs 3 and 4 of Article 1 of this Act are not applicable. The same obligation applies with respect to a representative or any other agents representing the foreign on-demand streaming service provider. The seller, its representative or any other agent representing the foreign on-demand streaming service provider shall without prompting give notice of its activities to the Media Commission, provided that paragraphs 3 and 4 of Article 1 of this Act are not applicable.

The Media Commission may request information from the Icelandic Revenue and Customs regarding on-demand streaming service providers domiciled or having a fixed establishment abroad, which have notified their activities to the Icelandic Revenue and Customs pursuant to Article 35(5) of the Value Added Tax Act No 50/1988.

Article 7. Reporting by on-demand streaming service providers.

An on-demand streaming service provider pursuant to paragraph 1 and 2 of Article 2 shall annually submit a report to the Media Commission containing information with respect to Iceland about the base to which the calculation of the cultural levy applies in the previous calendar year, *cf.* Article 4(4), and information about direct investment in audiovisual content, *cf.* Article 4(5), in the previous calendar year.

An on-demand streaming service provider splitting the costs of direct investment and spreading it over a three-year period, *cf.* Article 4(3), shall provide the Media Commission with information about the total amount, its breakdown per each year during the three-year period, as well as the details about audiovisual content invested in.

The report to the Media Commission shall be accompanied by calculations of the estimated cultural levy each year clearly demonstrating that the revenues are generated by the sale of subscriptions to a particular on-demand streaming service provider.

Organisations operating more than one on-demand streaming service provider may submit a single report addressing them all. Where there are more than one on-demand streaming service provider, information relating to the base to which the calculation of the cultural levy applies for each on-demand streaming service provider shall be clearly broken down.

Information pursuant to paragraphs 1 to 4 shall be verified by an independent statutory auditor.

The reporting by domestic on-demand streaming service providers shall coincide with the reporting obligation for media service providers to the Media Commission pursuant to Article 23 of the Media Act.

Article 8. The role of the Icelandic Film Centre.

The Icelandic Film Centre is in charge of the administration with respect to applications and allocation from the Icelandic Film Fund.

The Minister may, by amending Regulation No 229/2023, set further provisions on allocation from the Fund under authority contained in this Act, including allocation criteria, application documents and application deadlines.

Article 9. The role of the Media Commission.

The Media Commission supervises the implementation of the Act, including the annual collection of cultural levies contributed to the Icelandic Film Fund pursuant to Articles 4 and 10, based on the subscription revenues of the on-demand streaming service provider in Iceland in the previous calendar year. The Media Commission also supervises reporting by on-demand streaming service providers pursuant to Article 7. When evaluating what constitutes direct investment pursuant to Article 4(5) the Media Commission may consult the Icelandic Film Centre.

Chapter IV. Payment of the cultural levy, collection and complaints mechanisms.

Article 10. Collection.

Payment of the cultural levy shall be made to the Icelandic Film Centre pursuant to further provisions of rules created by the Minister.

Where an on-demand streaming services provider does not comply with paying the cultural levy, collection of the cultural levy is subject to the Act on Collection of Public Taxes and Fees No 150/2019.

Article 11. Complaints mechanisms.

Decisions by the Media Commission on the amount and payment of the cultural levy pursuant to this Act may be appealed to the Internal Revenue Board, *cf.* Article 26(1) of the Administrative Act. The time limit for lodging appeal is 30 days and is calculated from the date of the Media Commission's decision on the amount and payment of the cultural levy.

Chapter V. Miscellaneous Provisions.

Article 12. Regulation.

Power is conferred on the Minister to create rules containing further provisions on the implementation of this Act, providing more fully for exemptions from the payment of the cultural levy where a similar cultural levy is paid in other EEA Member States, *cf.* Article 4(7), the obligation on on-demand streaming service providers to register their activities and provide notifications pursuant to Article 6, including requirements with respect to the registration form, registration procedure, registration deadlines, the provision of information pursuant to paragraphs 3, 4 and 5 of Article 4, and the reporting by on-demand streaming service providers pursuant to Article 7, including as regards the content and format of reports, deadlines and confirmation of statutory auditor verification of the information.

Provisions on the collection of the cultural levy pursuant to Article 10 are set out after consulting the Ministry of Finance, including provisions on payment schemes and the collection of the cultural levy, due dates, interests and collection charges.

Article 13. Entry into force, etc.

This Act enters into force on 1 January 2025, subject to the fulfilment of the obligation to notify international organisations, *inter alia* on the basis of Act No 57/2000.

The cultural levy pursuant to Articles 4 and 5 is applied first in 2026 and based on financial statements and reports submitted by on-demand streaming service providers with respect to their activities in Iceland in the previous calendar year.

Results produced by the implementation of the Act will be evaluated three years after its entry into force and impact assessment is to be conducted by an independent party.