



**General Regulations of the Netherlands Film Fund  
Foundation**

*1 January 2019*

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The changes from 1 January 2019 are marked \*

## **General Regulations of the Netherlands Film Fund Foundation**

The Stichting Nederlands Fonds voor de Film [Netherlands Film Fund],

In view of the stipulations in the Algemene Wet Bestuursrecht, (Dutch General Administrative Law Act),

In view of Article 10, paragraph 4, of the Wet op het specifieke cultuurbeleid (Dutch Cultural Policy (Special-Purpose Funding) Act),

With the approval of the Minister of Education, Culture and Science of 14 December 2018,

decides as follows:

### **Article 1 Definitions**

In these regulations the following is understood:

Activity plan:	the applicant's plan for carrying out a related series of film activities not being a film production;
Completion:	the preparation of a film production for screening in the cinemas after the finalisation of the working copy;
Animation:	a film production that uses a man-made film technique in which by playing different still images the illusion of movement is given;
Arthouse film:	a feature film where the emphasis is on the artistic quality and the end result is so special that this is potentially recognised and valued nationally and/or internationally;
Budget:	the detailed financial basis of the costs of a film production or film activity;
Board:	the Chief Executive Officer (CEO) of the Fund;
Cinema release:	the national distribution of a film production, which is released after the première with a daily screening for several weeks and in several cinemas and/or film theatres in the Netherlands for a paying audience;
Category:	a type of film production;
Co-production:	a film production, for which two or more co-producers bear the risk and make a content-related and financial contribution based on a film plan and/or script approved by all parties;
Documentary:	a non-fiction film production suitable for cinema screening that throws light upon an aspect of reality where the director's own vision is given shape making creative use of cinematic resources in a personal style;
Documentary script:	the content-related setup for a documentary including the vision of the director of the subject, style, form and development within the narrative;
Film consultant:	a specialist film professional who for a limited period is appointed by the Fund to advise on applications to the Fund;
Cinematic experiment:	a film production that in the opinion of the board of the Fund within the categories of feature film, documentary, animation and short film, is innovative, investigative and/or revelatory, or experimental or artistic film productions, or interactive film productions with a clearly demonstrable cinematic component in which visual storytelling and the use of new media applications come together;
Financial & Production Protocol:	the protocol in which specific financial and production requirements that the Fund makes of film productions and film activities, are included;
Film activity:	a film-related activity of a set time that cannot be regarded as a film production;
Film plan:	the applicant's plan for carrying out a series of related activities involving the financing, creation and exploitation of a film production;
Film production:	a cinematographic work;

Film professional:	a natural person with demonstrable thorough and current knowledge and experience in the field of film production;
the Fund:	Netherlands Film Fund Foundation;
International co-production:	an internationally co-produced film production to be released in the Dutch cinema and/or film theatres. For a minority co-production the Dutch producer has limited decision-making powers and responsibility and also contributes less than fifty per cent of the funding for the film production. For a majority co-production the Dutch producer is jointly and severally responsible and has decision-making powers and also contributes more than fifty per cent of the funding for the film production;
Short film:	a film production with a screening time of up to 60 minutes
Mainstream film:	a feature film where the emphasis lies on the audience potential, that is the size of the audience reach in relation to the intended commercial results;
Market parties:	parties whose regular professional activity is aimed at the distribution and exploitation of film productions, in the widest sense of the word, or parties who make risk-bearing investments;
Matching contribution:	a contribution from the Fund that is granted if specific parties also make a certain contribution;
Media company:	a company involved in distributing, or permitting the distribution, of audiovisual media content to the general public or parts thereof;
Development:	all work associated with the development of a film production up to the production stage;
Producer:	the natural person who legally represents the production company and is ultimately responsible within the organisation of the production company for policy, operations and content;
Production costs:	the costs associated with the realisation of a film production;
Production company:	a legal entity that carries on business operations on a continuing basis with the principal aim of producing and exploiting film and/or media productions. At the time of the application the legal entity will have been established and active in the Netherlands, a Member State of the European Union or a State that is party to the agreement on the European Economic Area or Switzerland for a minimum of two years before the application;
Programme:	a subsidy programme put together by the Fund aimed at a specific objective;
Realisation:	all activities after the development phase that are associated with creating a film production intended for cinema release in the Netherlands and with making it ready for screening;
Director:	a natural person who is in charge of the artistic direction in relation to the execution of a film production;
Script:	a description of a sequence of scenes and written text with dialogue suitable for filming to create a film production;
Scenarist:	the writer of a synopsis, treatment, scenario or documentary script;
Feature film:	a film production in the fiction genre with a screening time of at least 60 minutes, which is primarily intended for cinema release;
Storyboard	a sequence of shots (worked up on paper) of scenes from a script consisting of drawings supplemented with written information, such as the dialogue, the sound as well as a brief description and the duration of each shot;
Synopsis:	a brief description of the story and the key characters of the script to be written;
Supplement:	an additional fund contribution based on predetermined criteria, included in the Financial & Production Protocol;
Treatment:	a concentrated written account of the script to be written, without dialogue, on a scene-by-scene basis or per cluster of scenes;
Production agreement:	the agreement between the Fund and the subsidy recipient implementing the decision to grant a subsidy.

## Article 2 Scope

The General Regulations apply alongside and in addition to the sub-regulations Development, Realisation, Distribution and Film activities unless otherwise provided in the relevant sub-regulations.

## Article 3 Granting subsidy

1. The board grants subsidies for film productions or film activities to promote the quality and diversity of film production in the Netherlands and a climate in the Netherlands that is receptive to film art.
2. The granting of a subsidy is in any case refused if the cultural criteria referred to in Article 4 are not met.
3. Without prejudice to the provisions of these regulations in its decision on the application to grant subsidy the board takes the following into consideration:
  - the requirements and assessment criteria stated in these regulations;
  - the requirements and assessment criteria in the sub-regulations;
  - the policy priorities established and published by the board;
  - the need for and scope of the subsidy requested;
  - the funds available;
  - the requirements and guidelines set out in the Financial & Production Protocol of the Fund;
  - the project analysis of the subsidy bureau; and
  - the advice of the film consultant(s) and/or ad hoc adviser(s) and/or head(s), if requested.
4. The rights and obligations arising from the subsidy provision cannot be transferred, encumbered, offered as security or ceded to third parties.

## Article 4 Cultural criteria and state support percentages for film productions

1. To be eligible for a subsidy within the meaning of these regulations a film production, without prejudice to the provisions in European state support regulations, in the case of feature films shall meet at least three and, in the case of the other categories and minority co-productions, two of the following characteristics:
  - a. the script on which the film production is based largely takes place in the Netherlands, or in another Member State of the European Union, or in a State that is party to the Agreement concerning the European Economic Area, or in Switzerland;
  - b. at least one of the main characters belongs to the Dutch culture or Dutch language area;
  - c. the script on which the film production is based is mainly written in Dutch;
  - d. the script of the film production is based on a literary work of Dutch origin;
  - e. the main theme of the film production relates to art or artists;
  - f. the main theme of the film production relates to historic figures or events;
  - g. the main theme of the film production relates to current cultural, social or political issues relevant for the Dutch population.
2. For a film production for which another (Dutch) administrative body and/or the Fund has made a financial contribution, only such an amount of subsidy may be granted that the total state support contributions granted may not amount to more than 50% of the production costs.
3. For a cross-border film production which is financed by aid contributions from more than one Member State of the European Union and in which producers from more than one Member State are involved, the percentage of state support mentioned in the second paragraph may be a maximum of 60% of the production budget.
4. For a 'difficult' film (see notes) or a cross-border film production involving countries from the DAC country list of the OECD, which therefore has limited commercial value, a higher percentage than the percentage mentioned in the second and third paragraphs may be granted, provided the producer and possibly the director have enclosed a written vision with the subsidy application which, in the opinion of the board, shows that the film production:
  - (i) contributes to the diversity of film in the Netherlands; and in addition:
  - (ii) either signifies a marked artistic enrichment and/or an innovative addition to the regular film supply in the Netherlands.

## Article 5 Assessment criteria

1. In assessing a subsidy application the board uses the following criteria to assess the *quality* of the film production or film activity. The film production or film activity must:

- a. have content-related quality, and,
- b. be based on a strong film plan or activity plan and have a feasible reach
2. In assessing the *track record* the board assesses the results that the scenarist, director, producer concerned and/or organisations concerned have achieved with previous film productions or film activities.
3. In assessing the contribution to *diversity* and the *film climate*, the board assesses the degree to which the film production or film activity contributes to:
  - a. the diversity of the (film) supply and film professionals involved in this in the Netherlands, and,
  - b. the professionalisation and strengthening of the Dutch film climate.
4. To be eligible for granting the application the opinion of the assessment criteria stated in the first to the third paragraph must be positive where the relationship between these criteria is also involved in this opinion.
5. The board may include further assessment criteria in the sub-regulations.

#### **Article 6 Forms of subsidy**

1. The board grants project subsidies, multi-annual activity subsidies or subsidies in the form of *slate funding*.
2. The board may make the granting of these subsidies conditional on the income that is obtained from exploitation of the film production or film activity relating to the application being repaid to the Fund.
3. The board may grant a subsidy in the form of provision of a guarantee.

#### **Article 7 Subsidy ceiling and budget reservation**

1. The board may each calendar year set a subsidy ceiling and determine how the available amount is distributed.
2. The board may for each sub-regulation, within the different sub-regulations, determine programmes and categories as well as separate subsidy ceilings for each subsidy round and determine how the available amounts are distributed.
3. The subsidy ceilings for each calendar year may differ and are published in the Staatscourant (Dutch Government Gazette) and announced on the website of the Fund: [www.filmfonds.nl](http://www.filmfonds.nl).
4. The granting of subsidy is refused if by granting the subsidy the subsidy ceilings, referred to in the first and second paragraph, are exceeded.
5. Subsidy is granted subject to provision of the corresponding funds by the Minister of Education, Culture and Science.

#### **Article 8 Level of the subsidy amount**

1. The level of a subsidy may be determined by the board for each individual case in the light of maximum contributions, possibly increased by any supplements and matching contributions published in the Financial & Production Protocol.
2. The board may determine the contributions referred to in the above paragraph for each category, for each programme, for international co-productions and for film productions where the Fund cooperates with other (subsidy granting) institutions.

#### **Article 9 Applicant**

1. A subsidy on application is only granted to a film professional or a legal entity who for at least a minimum of two years prior to the application lives or is established in the Netherlands, a Member State of the European Union, or in a state that is party to the agreement concerning the European Economic Area, or in Switzerland, whose profession or main activity is writing for, developing, producing, exploiting/distributing film productions or the organisation and/or execution of a film activity to promote the quality and diversity of film production in the Netherlands and a (production) climate in the Netherlands receptive to film art.
2. The board may lay down further requirements for the applicant in sub-regulations.
3. Not eligible for a subsidy are:
  - a media company;
  - an applicant in which a media company has such direct or indirect control or actual influence that this media company can largely determine the applicant's policy or has significant influence over the content of the applicant's policy;
  - anyone still following (vocational) training.

### Article 10 Requirements

A subsidy may only be granted, if in the opinion of the board:

- a. the subsidy serves to cover the costs for realising the film production or film activity where these costs are not already covered by a third party;
- b. it is likely that granting the subsidy is necessary to achieve the purpose of the application;
- c. it is likely that the purpose of the application can be achieved in accordance with the expenditure budgeted in the application and that the budgeted spending is reasonable, cost efficient and in line with the market;
- d. it is likely that the applicant can actually obtain all the financial resources including any subsidy from the Fund, and the filming and exploitation rights to the film production or film activity that according to the film or activity plan submitted with the application are necessary to achieve the purpose indicated in the application;
- e. there is sufficient confidence that the film or activity plan will be carried out properly;
- f. the film production or film activity for which subsidy is requested at the time of granting the subsidy has not already been fully or partly made public;
- g. the subsidy does not serve to cover costs that are incurred in the period before the decision to grant the subsidy; and,
- h. it is likely that the applicant can meet the subsidy obligations indicated in these regulations.

### Article 11 Application

1. A subsidy application is only submitted using an application form made available by the Fund.
2. The application form shall be filled in truthfully, fully and in accordance with the guidelines indicated in the notes to the application form and the Financial & Production Protocol, accompanied by all annexes requested.
3. Digital application forms are available via the website [www.filmfonds.nl](http://www.filmfonds.nl).
4. An application that is submitted late will not be considered.
5. If the board discovers that an application has been incompletely submitted it shall give the applicant the opportunity to supplement the application within a period of five working days. If the applicant does not manage to supplement the application within the period set, the incomplete application is not processed. If the application is submitted complete within the period set then the initial date of submission applies.
6. Where the applicant has also applied for subsidy for the same budgeted expenditure from other administrative bodies, he shall notify this in the application, indicating the state of affairs relating to the assessment of this application or these applications.
7. Where the applicant has applied for or received funding for the same budgeted expenditure from private parties, he shall notify this in the application by specifying these parties, indicating the state of affairs with regard to this funding.
8. Different applications for the same film production or film activity may not be submitted at the same time to the Fund, unless the board has given its written consent for this.

### Article 12 Submission dates

1. The board processes applications in subsidy rounds, from submission dates intended for this, unless otherwise provided by the board.
2. The Fund publishes the submission dates for the subsidy rounds on its website: [www.filmfonds.nl](http://www.filmfonds.nl)

### Article 13 Method of assessment and decision on the application

1. An application is sent to the board. The board may submit an application for advice to (a) film consultant(s) and/or (ad hoc) adviser(s) and/or head(s), referred to in the Rules of Procedure.
2. The board shall decide at the latest within 13 weeks after receipt of the application. If the application is submitted for advice to a film consultant and/or (ad hoc) adviser(s) this period is at the latest 22 weeks.

### Article 14 Grounds for refusal

1. Without prejudice to the provisions in the General Administrative Law Act, an application for a subsidy is rejected, if in the opinion of the board the provisions of the General Regulations are not met, including, but not limited to, Article 10 of the General Regulations and/or the applicable sub-regulations of the Fund.
2. The board has the option to grant a lower subsidy than applied for on the basis of the amounts established by the board as referred to in Article 8.

3. An application for subsidy may also be rejected if the applicant or the natural person who legally represents the applicant has not demonstrably complied with regulations set for previous subsidies granted by the board, or has imputably defaulted in fulfilling one or more obligations associated with a previous subsidy grant or a production agreement of the Fund.
4. An application for a film activity or phase of a film production that has been rejected by the board twice before will not be considered further.

#### **Article 15 Conditions and production agreement**

1. In the case of a financial contribution in the form of a loan, the board associates with the decision to grant subsidy the suspensory condition that the production agreement is concluded unless otherwise provided in the decision to grant subsidy.
2. In the case of a subsidy in the form of a guarantee, the board associates with the decision to grant subsidy the suspensory condition that the loan agreement between the producer and the credit provider is concluded.
3. The board may provide in the decision to grant subsidy that the applicant for a non-repayable financial contribution is obliged to cooperate in the conclusion of a production agreement.

#### **Article 16 General obligations**

1. The board imposes on the subsidy recipient the obligation that:
  - a. the objectives laid down in the film plan or activity plan on the basis of which subsidy is granted, are pursued effectively;
  - b. (the results of) the film production or film activity for which a subsidy is granted whether or not in return for payment are publicly accessible;
  - c. the Fund is at all times informed correctly and truthfully.
2. The board may impose on the subsidy recipient the obligation that:
  - a. the records are kept clearly and effectively in accordance with the Dutch regulations, the Financial & Production Protocol and the corresponding Financial Reporting Manual;
  - b. the records give an accurate, complete and up-to-date picture of the functioning of the applicant and at a detailed level is in line with the budget and finance plan approved by the Fund;
  - c. proper evidence of all receipts and expenditure is present, clearly showing the nature and scope of the goods supplied or the services carried out and reports, cost, spending and other summaries are included in the applicant's records;
  - d. the records and the related evidence shall be kept for at least five years after the determination of the subsidy;
  - e. the subsidy is issued in accordance with the spending commitment, if it is included in the sub-regulations;
  - f. the proceeds to be generated with exploitation of the film production or film activity shall be distributed in a previously agreed manner between the beneficiaries and financiers and that the proceeds of the subsidy granted on the basis of this regulation shall be used at a given time for the next film production or film activity, and,
  - g. the latter shall at least once every 12 months submit an interim progress report.
3. The subsidy recipient shall report to the Fund without delay as soon as:
  - a. it is likely that the film production or film activity for which subsidy is granted will not be carried out, or not in good time or not completely in accordance with the purpose or the film or activity plan on the basis of which subsidy is granted;
  - b. it is likely that the obligations associated with the subsidy will not be fulfilled, or not in good time or not completely;
  - c. substantial changes have occurred with respect to the details submitted in the application that are provided to the Fund within the framework of the granting or establishment of subsidy or,
  - d. with regard to the execution of the film production or activity changes have occurred with respect to the application and/or special circumstances occur.
4. The subsidy recipient shall demonstrate, in the way indicated in the decision to grant subsidy, that the film production or film activity for which the subsidy is granted, has been realised and that the obligations associated with the subsidy have been met.

#### **Article 17 Special obligations**

The subsidy recipient:

- a. is obliged to ensure that the film activity or the film production for which subsidy is granted is completed within 12 months after granting subsidy. For a film production for which realisation

subsidy is granted this in principle starts within 12 months after granting subsidy and within 24 months after the start is ready and made public;

- b. shall notify the Fund of the time when the public accessibility to the film production or film activity to be subsidised starts;
- c. shall notify the Fund of the audience reach and the (commercial) results that are achieved from the time when the public accessibility to the film production or film activity to be subsidised starts;
- d. shall be obliged after completion of the film activity or film production for which the contribution has been granted to transfer ownership of copies of the completed film production in accordance with any guidelines for delivery as indicated in the Financial & Production Protocol, or the copy of the activity report to the Fund. The Fund is granted the right to full or partial publication of the film production or the activity report within the framework of the normal activity of the Fund or its legal successors, unless it can reasonably be stated that this publication may disproportionately harm the interests of the applicant or his legal beneficiaries;
- e. shall be obliged to grant consent 'free of charge' for non-commercial educational use or one-off or special publications of the film production that in order to promote the film climate in the Netherlands are of national importance, and to multiply these for this purpose, unless it can reasonably be stated that this publication may disproportionately damage the interests of the applicant or his legal beneficiaries.

#### **Article 18 Advances**

1. The board may make advances. In the decision to grant subsidy and in the production agreement the frequency of making advances and the level of the advance are provided.
2. If subsidy is granted to a legal entity as applicant for which the head office or place of establishment is not in the Netherlands, the applicant is obliged to demonstrate to the satisfaction of the board that at the time of granting the advance the applicant has a branch in the Netherlands with at least one permanent employee.

#### **Article 19 Accounting**

1. The subsidy recipient is obliged without prejudice to the provisions of Article 4:45 of the General Administrative Law Act if requested to submit the following documents:
  - a. a report of the film activity or a film print of (the part of) the film production for which subsidy is granted;
  - b. reports of operating income.
2. The activity report gives an idea of the nature, duration and scope of the activity carried out within the framework of subsidisation, as well as the audience reach. The activity report compares the activity carried out with the activity proposed in the activity plan.
3. The board may oblige the subsidy recipient to submit a financial report on the actual costs and proceeds.
4. The financial report gives such an idea that a sound opinion can be formed regarding the use and spending of the subsidy by the subsidy recipient and of the funding received from third parties. The financial report is in line with the layout of the budget and the finance plan that have been submitted prior to granting subsidy or upon signature of the production agreement and approved by the Fund in accordance with the Financial & Production Protocol of the Fund. Major differences between financial report and budget and/or finance plan shall be explained.
5. The board may oblige the subsidy recipient to accompany the financial report with a report from the accountant as referred to in Article 393, first paragraph, of Book 2 of the Dutch Civil Code. In that case the accountant follows the Fund's Financial Reporting Manual.
6. Representatives of the Fund may on the first request inspect the records relating to the film production or film activity for which the subsidy is granted. The costs for such a check by representatives of the Fund shall be for account of the Fund unless imputable irregularities are found. In such a case the costs are charged to the subsidy recipient.
7. The Fund may carry out unlimited random checks to monitor whether the obligations associated with the subsidy have been met.

#### **Article 20 Subsidy determination**

1. Within four months after the first publication of the film production or the completion of the film activity the subsidy recipient must submit an application for determination, unless another period is determined in the production agreement or the subsidy was already determined on being granted. If this period is exceeded, the board is authorised officially to determine the subsidy granted.

2. The application for determination is accompanied by the documents mentioned in Article 19 and in the production agreement.
3. The recipient of the subsidy is obliged to submit to the Fund on request all records and information that are considered necessary to determine the subsidy.
4. The recipient of a subsidy shall ensure that his accountant cooperates with any investigation by or on account of the Fund into the (audit) work carried out by the applicant's accountant. The costs associated with the cooperation of the accountant, shall be for account of the applicant.
5. The board shall set the level of the subsidy at the latest 22 weeks after the submission period referred to in the first paragraph. The level of the subsidy determined may not be higher than the amount of the subsidy granted.
6. As an exception to this Article the board may in certain cases give a decision to grant subsidy, indicating the latest date on which the activity must be carried out and the latest date on which the subsidy must be determined by the Fund.

#### **Article 21 Payment**

1. Within eight weeks after the date of the decision to determine the subsidy the subsidy amount is paid or set off against advances paid.
2. The recipient of the subsidy shall immediately repay surplus advances received.

#### **Article 22 Amendment, withdrawal and recovery of subsidy**

1. The board may withdraw the subsidy granted or revise it to the disadvantage of the subsidy recipient if it has not complied with the obligations associated with the subsidy, including but not limited to, the reporting duty referred to in Article 16 or if there has been a default in the fulfilment of the obligations arising from the production agreement after which the funds shall fall to the relevant category.
2. If the board finds that substantial changes have occurred with respect to the details submitted to the Fund in the application or in the conclusion of the production agreement, the board may withdraw the subsidy granted or amend it to the disadvantage of the subsidy recipient.
3. The board is authorised to amend or withdraw the subsidy if the applicant after the subsidy is granted, but before the determination of the subsidy, has received more or fewer financial contributions from third parties than indicated in the application.
4. The withdrawal or amendment shall have retroactive effect to the time when the subsidy was granted, unless otherwise provided upon withdrawal or amendment.
5. The amount by which the subsidy is reduced where applicable is in the first instance set off against advances still to be granted. Should that not be sufficient then advances already paid out are reclaimed.

#### **Article 23 Other**

Should the case arise the board may in accordance with the Articles 3 to 5 of these regulations, grant a subsidy outside the scope of the sub-regulations.

#### **Article 24 Preservation and exploitation**

To retain the cultural heritage the Fund or its legal successor is entitled to keep all papers, documents and any film copies and/or other pictures supplied that it has in its possession with regard to an application for a subsidy, after completing the application or to give them or donate them for keeping to the EYE Film Institute Netherlands or the State Archives department. Without the prior written consent of the board and, where necessary, of the beneficiary/beneficiaries, these papers and documents shall not be given to third parties for inspection either by the Fund or its legal successor, or by the EYE Film Institute Netherlands or the State Archives Department. The board shall not grant this consent if it can reasonably be suspected that granting inspection of the papers or documents may harm the interest of the applicant, or other persons involved in the application.

#### **Article 25 Transitional and final provisions**

1. In all cases not provided for by these regulations, the board shall decide.
2. The board may for important reasons depart from these regulations and the sub-regulations based on them, where such departures are compatible with the assessment framework for state support to the film sector, as used by the European Commission.
3. Changes to the regulations, which were adopted by the board with the approval of the Board of Trustees on 23 November 2018, were implemented as of 1 January 2019.

4. These regulations come into effect as from 1 January 2019.
5. The General Regulations, applicable from 1 February 2018, are withdrawn as of 1 January 2019.
6. All applications received by the Fund before 1 January 2019 remain subject to the General Regulations as they applied up to 1 January 2019.
7. These regulations are cited as General Regulations of the Netherlands Film Fund Foundation.
8. These regulations are notified by publishing them in the Staatscourant (Dutch Government Gazette) and on the website of the Fund ([www.filmfonds.nl](http://www.filmfonds.nl)).

## NOTES

The General Regulations serve as basic regulations for the sub-regulations Development, Realisation, Distribution and Film Activities of the Fund and contain all the provisions applicable for every film production or film activity for which subsidy is applied for.

Wherever these regulations state *the Netherlands* one should read *the Netherlands and the BES islands (Bonaire, St. Eustatius and Saba)*.

### Article-by-article notes

#### *Article 1 (Definitions)*

In an arthouse film the emphasis lies on the artistic potential of the film production, which is understood to mean that the end result will be of such special quality that the film production will be well received nationally and/or internationally on that basis and there is a credible chance of the film production being selected for international festivals and/or prizes.

The Fund understands by the definition of cinema release a thorough and national distribution of a film production, released after the première with a daily screening for a significant number of weeks and in a significant number of cinemas and/or film theatres for a paying audience. In the case where a realisation contribution is granted for a film production, the extent of the release must be in line with the approved exploitation objective in the application. If for a specific film production a different release in cinemas and film theatres is necessary, such as documentaries or vulnerable artistic feature films, this must be agreed with the Fund in advance. This involves the cinema release *in the Netherlands* unless otherwise provided in the relevant sub-regulations under 'subsidisable activity'.

Fiction means a film production in which a story is told that mainly takes place in the fantasy of the maker and the viewer. This means that the main elements, the story/plot, characters and story structure are invented/fictitious and not based on reality. This is unlike non-fiction, which means film productions that mainly do relate to reality.

A film professional is a natural person with demonstrable and thorough specialist knowledge and current professional experience in his or her own field of film production.

A media company is a company involved in the distribution of audiovisual media content, such as broadcasting or cable companies. The Fund also regards any company that forms part of a corporate structure in which the media content chain of production, distribution and exploitation is integrated to be a media company. A media company may invest in a film production, or film activity, but for the Fund does not qualify as an applicant.

The producer who is ultimately responsible is in principle also the owner of/shareholder in the production company.

#### *Article 3 (Granting subsidy)*

Based on criteria and policy objectives derived from its statutory objective, the board grants subsidies for film productions and film activities.

Subsidies from the Fund are classified as state support. An application for subsidy cannot therefore be granted if the so-called cultural criteria are not met. In the case of an application for film production the board therefore assesses first whether an application passes the cultural criteria test. If the cultural criteria are met the board then assesses the application in the light of the assessment criteria, (sub-)regulations, the Financial & Production Protocol and policy priorities referred to in the third paragraph.

#### *Article 4 (Cultural criteria and state support percentages for film productions)*

##### *Cultural criteria*

Fond subsidies are classified as state support. This is why only film productions with a cultural value are eligible for a contribution from the Fund. The 'cultural criteria' that the Fund uses for this are set out in paragraph 1: the Fund uses seven characteristics, of which in the opinion of the board at least

three characteristics must be met for feature films and at least two for the other categories and in the case of minority co-productions.

The 7 characteristics therefore also apply to categories other than feature film. For non-fiction projects such as documentary instead of 'script' 'documentary script' can therefore be read and for animation projects for 'script' 'storyboard', at the choice of the applicant.

Meeting the criteria in paragraph 1 means that a film production has cultural value within the framework of the Film Communication from 2013 of the European Commission. The own assessment criteria that the board uses to assess an application are set out in Article 5.

'Largely' in characteristic a., of the cultural criteria as listed in paragraph 1, means that the main location(s) where the script takes place must be in one or more of the countries mentioned, where it must be likely on the basis of the script that the film production realised takes place at this location/these locations for more than 75% of the screening time. In the case of an application involving international co-production the board may decide to adjust this percentage.

Characteristic b. requires that at least one of the supporting roles is a Dutch-speaking role or character, or that a leading role/leading character has a home or place of residence in the Netherlands or the overseas territories, and in that sense in the film production realised forms a visible part of the Dutch culture. The fact that the actor playing a supporting role or the character is of Dutch nationality is not enough in itself to assume that this characteristic is met.

'Mainly' used in characteristic c. means that from the script it is likely that more than 50% of the dialogues included in the film production are in Dutch. In the case of animation in the opinion of the board it must be likely that in first instance a Dutch language version of the film production will be produced for distribution in the Netherlands.

The literary work of Dutch origin in characteristic d. refers to a book, stage play, radio play or script of Dutch origin. The script to be filmed that is based on the literary work of Dutch origin may be written in a language other than Dutch. In the case of a script of Dutch origin that is filmed in another language – where the work is not already known in a wider circle – the applicant shall show convincingly and in a way leaving no room for doubt that the original script was written in Dutch.

With regard to characteristic e. the film production must focus on leading national or international artists and/or generally recognised, professional art disciplines. The same applies for the major historical figures or events from history of characteristic f.

#### *State support percentages*

The total government support including subsidies from the Fund in the EU may in an absolute sense not be greater than 50% of the total production costs per film project. Paragraph 2 states that the board takes this into account when granting subsidy.

Paragraphs 3 and 4 include hardship clauses. Only in special cases sanctioned by the EC may the total government support be more than 50% in accordance with the European Commission communication on state support for films and other audiovisual works of 2013.

The board of the Fund decides for each application whether, based on the vision of the producer, director and scenarist, this is a difficult film. A short film, documentary, low budget film for which the production costs amount to a maximum of 2 million Euros, a cinematic experiment or arthouse film may be considered as a difficult film with a limited market potential.

#### *Article 5 (Assessment criteria)*

The board assesses the applications on three different aspects. To come to a decision to grant subsidy the total of these three aspects must be assessed positively.

##### 1. Quality of the film production or film activity

In assessing the *quality* this involves the following sub-criteria:  
the content-related quality, strength and feasibility and scope of the reach.  
These sub-criteria are assessed in relation to one another.

##### *a. Content-related quality*

When applying the assessment criterion 'content-related quality' for a film production this means the quality of the synopsis, treatment, script, storyboard or for a documentary the documentary script, or part thereof, are evaluated. In addition the board may look at the originality, authenticity and urgency, as well as at the internal consistency, characters, dialogues, structure and the cinematographic quality expressed by the form, style and visual qualities. Also the notes and visions of the film production of the scenarist and/or director and producer are considered, as well as the viewings material and previous work provided.

In a film activity the quality of the activity plan is assessed for originality, urgency, intended execution and any professionals involved, in the light of the applicant's notes.

*b. Strength, feasibility and reach of the film plan or activity plan*

In assessing the strength of the film plan or activity plan the board looks at the strength of the budget, the finance plan and production practicability, financial commitments of and/or agreements with third parties in relation to the feasibility and the scope of the reach of a film production or film activity. The director's vision and the notes of the producer in relation to the film plan are considered here.

The entrepreneurship of the applicant is of central importance for this criterion.

This involves the extent to which the applicant has involved and/or intends to involve other financiers and the effort that the applicant makes to be cost-efficient and work in line with market conditions, also in relation to the corresponding distribution of proceeds, as well as the way in which the applicant wishes to achieve the intended (inter)national (audience) objective.

In assessing the reach of a film production or film activity the proposed distribution and exploitation forms and the national and/or international positioning are tested for feasibility and scope. The application must, except in case of a development application, include a cross-media marketing & distribution plan that shows evidence of a well thought out and realistic audience approach indicating how a film production or film activity can be translated for the (inter)national audience.

When applying the criteria of feasibility and reach, for a mainstream film the emphasis lies on the audience potential in the Netherlands, which is understood to mean the size of the audience reach in relation to the intended exploitation results. Films with the highest commercial objectives are not the priority. For arthouse films, documentary, animated film and cinematic experiment, when applying the criteria of feasibility and reach the emphasis lies on the artistic potential of the film production, which is understood to mean that the end result will be of such an idiosyncratic and special quality that the film production is able to appeal to a more cinephile audience in the Netherlands and abroad on this basis and there is a credible chance that the film production will be selected for (inter)national festivals and/or prizes.

2. Track record

The track record of the applicant is assessed in relation to the film production or film activity to which the application relates. The team of director, scenarist and producer involved in film productions or the team of organisations and professionals involved in film activities should also strengthen one another in knowledge and experience.

In a film production for the 'track record' assessment criterion the board will look primarily at the track record of the producer, scenarist and director. This involves the professional experience with previous film productions of these people and the results of these film productions in artistic (e.g. festival selections, exhibitions, prizes, any leading (inter)national reviews supplied) and commercial aspects (e.g. box office figures and also turnover and audience reach as regards DVD/Blu-ray exploitation, On Demand, (pay) television, international sales).

In assessing the track record of the applicant the completion of previous subsidies granted is taken into account and consideration is given to whether all the subsidy regulations and obligations have been met. Also other parties involved in the application, such as market parties or co-producers if these are crucial for the film production or film activity, may be checked by the Fund against the 'track record' criterion. In the case of first-timers the Fund shall obtain advice in order to assess the track record.

3. The contribution to diversity and the film climate

The board assesses, in conjunction with the film plan or activity plan, the degree to which the film production or film activity has an impact on diversity and the film climate in the Netherlands.

*a. Contribution to diversity*

When checking diversity the board assesses whether the film production or film activity has added value for the diversity of the (film) offer or the film professionals involved in front of and behind the scenes in the Netherlands. The diversity of the intended audience can also be considered here. This may for example mean that the board decides to limit or conversely encourage the number of projects to be accepted in a category, genre or specific activity because otherwise the diversity is threatened.

*b. Contribution to the professionalisation and strengthening of the film climate*

For film productions, the board also assesses to what extent this contributes to the continuity and development of talented Dutch film professionals, and/or offers opportunities for new talent. For film activities the board assesses whether these contribute to promoting expertise and/or the exchange and broadening of knowledge among film professionals and/or the public in the Netherlands and/or a greater national and/or international interest in the Dutch film culture.

*Article 6 (Forms of subsidy)*

The board may grant subsidies in the form of a loan where the Fund shares in the income from exploitation. Regulations are associated with a subsidy in the form of a loan, for example with regard to realistic repayment and the position in the recoupment schedule. In addition, or in combination with a loan, the board may grant a loan that must be repaid to the Fund preferentially (the so-called guarantee).

In the case of a guarantee the Fund does not grant a loan itself but stands as guarantor for interest and redemption for a loan to be granted to a producer by a third party – for example a bank. The board may associate regulations with the decision to provide a guarantee, among other things with regard to matters that serve to protect the interests of the Fund as guarantor.

*Article 7 (Subsidy ceiling and budget reservation)*

If in a calendar year or a specific subsidy round the subsidy ceiling is underrun, the amount of the underrun is added to the funds that are available for the next year or subsidy round. If an application is rejected because the subsidy ceiling is exceeded, this has no effect for the number of times that an application may be submitted for the same film production or film activity, as set out in Article 3 paragraph 2 of the sub-regulation on realisation.

*Article 8 (Level of the subsidy amount)*

Maximum levels apply with regard to the contributions that the board makes. The level of a contribution is determined on the basis of the assessment of the Fund and the provisions set out in the Financial & Production Protocol.

*Article 9 (Applicant)*

The Fund is aimed at natural persons and legal entities that are professionally active in the field of film productions and film activities. A media company is not eligible as an applicant and also may not have a direct or indirect control of or actual influence over the applicant such that the media company can largely determine the applicant's policy or has significant influence over its content.

*Article 10 (Requirements)*

Costs that the subsidy applicants incur prior to the decision to grant subsidy are for the applicant's own account and risk. These costs are not eligible for subsidy unless the board when granting subsidy regards these costs as crucial for preparing the application.

*Article 11 (Application)*

An application is submitted to the board of the Fund and may not be submitted simultaneously to several film consultants and/or programmes for advice. The application is made in Dutch unless an exception can be made to this in the relevant application form, because of the nature of the application. The application shall in any case be accompanied by a film or activity plan including a budget and finance plan. Double subsidisation or financing of budgeted items is not permitted. For this reason the Fund wishes to obtain an idea of applications for the same budgeted items submitted to other subsidy granting institutions and/or financing of these by private parties. Double financing will lead to withdrawal or recovery of any amount granted.

Applications for pornographic films, public relations films, information films, business films, a report, a purely scientific or teaching media production, advertising films and educational films are not supported via any of the sub-regulations.

*Article 13 (Method of assessment and decision on the application)*

Decisions on granting subsidy shall only be taken by the board. The film consultant, an adviser or the head of a subsidy programme may never give promises to third parties on behalf of the board, or commit the Fund in any way.

The board must decide at the latest within the periods stipulated in this Article. The Fund shall endeavour to complete the assessment in as short a time as possible.

*Article 14 (Grounds for refusal)*

Applications that have previously been refused twice in the context of a specific cooperation project will no longer be considered within the same cooperation project, unless agreed otherwise with the cooperation partners.

The board may refuse the application among other things if the Fund has a justified reason for assuming that the applicant will not adhere to the obligations associated with the subsidy, will not properly account for the subsidy granted or that the film production or film activity will not be completed.

If the applicant or the natural person legally representing the applicant has not complied with the regulations laid down for previous subsidies by the board or has culpably defaulted in complying with one or more obligations associated with an earlier subsidy grant or a production agreement of the Fund and at the time of the application has not taken adequate measures to prevent a repetition, the board has specific instructions that support a refusal decision. If in a previous film production or film activity production and financial disasters were reported late or incompletely, there was no or incomplete and late financial accounting or if subsidy was not used for the purpose for which it was intended, the application is refused. If in the opinion of board correction of these failures is feasible, the board may, instead of refusing an application, suspend the handling of the application to give the applicant the opportunity to rectify the failures within a period to be determined by the board before the board decides on the application.

*Article 16 (General obligations)*

The board follows with these regulations and the decisions based thereon, where non-repayable subsidies are involved, the Instructions for granting subsidy, also called the Uniform Subsidy Framework (USK). For subsidies in the form of loans the board applies the USK where the loan character of the subsidy does not prevent this.

When the board grants a subsidy the check is carried out during the execution of the film production or film activity. The recipient has an active reporting duty here when not carrying out the film activity or in case of non-fulfilment of obligations or in case of unforeseen circumstances during the execution. The Fund may carry out unlimited random checks to ensure that the obligations associated with the subsidy are met. The applicant's records must therefore be set up such that they can be checked by the Fund.

The subsidy recipient shall ensure that the purposes, as set out in the film plan, are effectively pursued. This means that the relevant efforts and expenditure actually contribute to achieving the intended purposes and the subsidy granted by the board can under no circumstances be used to cover the costs of other projects of the producer.

Reports and summaries are understood to mean the production and post-production planning, any call sheets and daily reports, reports on the income and repayment to financiers and other possible papers of an organisational nature.

Substantial changes as mentioned in paragraph 3 (c) in any case include the so-called unique characteristics on the basis of which the subsidy is granted. For film productions the applicant, director, script, the level of the budget or the amount of subsidy granted and where applicable the particulars mentioned in the decision are included as these unique characteristics.

*Article 17 (Special obligations)*

The applicant is obliged to make the film production or film activity for which a contribution has been granted accessible to the public and must inform the Fund beforehand of the time when the film production or film activity is being made public. For film productions, the applicant must fully inform the Fund of the start and method of the cinema release and further exploitation as well as of the audience results and exploitation results. The subsidy recipient undertakes to give consent for a one-off or special publication of the film production within the framework of promoting the film climate in the Netherlands, such as for example a publication within the framework of a national convention or a national event.

*Article 18 (Advances)*

Advances are made in accordance with the frequency of making advances included in the decision and are intended for the prompt making of a down payment on or payment of expenses for the purpose for which subsidy has been granted. The level of the advances is determined based on a liquidity forecast. The subsidy recipient is obliged to report any circumstances that affect the level of the amount granted. The board may then, if necessary by an amendment of the decision, adjust the frequency of making advances and the level of the advances. After determining the subsidy the remaining amount (the amount determined less the advances granted), is paid out to the subsidy recipient.

*Article 19 (Accounting)*

Because due to the complex financing structure of film productions or activity, the ultimate costs and proceeds of these may be so uncertain, the Fund may request a statement regarding actual costs and proceeds.

The costs of an audit by representatives of the Fund shall be for account of the Fund unless imputable irregularities are found.

*Article 20 (Subsidy determination)*

The period of four months for the realisation of a film production commences after the public première of the film production in the Netherlands.

After a justified request for this the board may extend the period within which the application to determine the grant is submitted. For applications, where the settlement is so complex and extensive, the board may on request of the applicant extend this period by two months.

*Article 25 (Transitional and final provisions)*

The reference date relevant for the transitional system is the date of submission of the application to grant subsidy. The former General Regulations and the relevant sub-regulations apply to an application submitted before 1 January 2019. For applications submitted after this date, these regulations and the relevant sub-regulations apply.