

No. 50312

**South Africa
and
Ireland**

Agreement between the Government of the Republic of South Africa and the Government of Ireland concerning the co-production of films (with annex and exchange of notes, 17 September 2012, 27 September 2012 and 12 October 2012). Cannes, 20 May 2012

Entry into force: *27 September 2012 by notification, in accordance with article 18*

Authentic text: *English*

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**Afrique du Sud
et
Irlande**

Accord entre le Gouvernement de la République sud-africaine et le Gouvernement de l'Irlande relatif à la coproduction cinématographique (avec annexe et échange de notes, 17 septembre 2012, 27 septembre 2012 et 12 octobre 2012). Cannes, 20 mai 2012

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT

BETWEEN

**THE GOVERNMENT OF THE REPUBLIC OF
SOUTH AFRICA**

AND

THE GOVERNMENT OF IRELAND

**CONCERNING THE CO-PRODUCTION OF
FILMS**

PREAMBLE

The Government of the Republic of South Africa and the Government of Ireland (jointly referred to as “the Parties” and separately as a “Party”);

SEEKING to enhance cooperation between their two countries in the area of film;

DESIROUS of expanding and facilitating the co-production of films which may be conducive to the film industries of both countries and to the development of their cultural and economic exchanges;

CONVINCED that these exchanges will contribute to the enhancement of relations between the two countries;

HEREBY AGREE as follows:

Article 1

Definitions

For the purposes of this Agreement unless the context indicates otherwise:

“Competent Authority” means the authority designated as such in the Annex by each Party.

“co-producer” means one or more nationals of the Republic of South Africa or one or more nationals of Ireland involved in the making of a co-production film, or, in relation to Article 6 third country co-productions, nationals of the third country;

“co-production film” means a film made by one or more nationals of one Party in cooperation with one or more nationals of the other Party under a project approved jointly by the Competent Authorities, and includes a film to which Article 6 applies;

“film” means an aggregate of images, or of images and sounds, embodied in any material, and includes television and video recordings, animations and digital format productions;

“third party co-producer “ means any individual from another country with which Ireland or the Republic of South Africa maintain a film and audiovisual co-production agreement as referred to under Article 6 (Third Country Co-productions);

“Nationals” mean:

- (a) In the case of Ireland,
 - (i) Irish residents;
 - (ii) citizens of Ireland;
 - (iii) nationals of a Member State of the European Union; or
 - (iv) nationals of another Contracting State to the Agreement of 2 May 1992 regarding the European Economic Area (“the EEA Agreement”);
- (b) in the case of the Republic of South Africa ,
 - (i) citizens of the Republic of South Africa; or
 - (ii) permanent residents of the Republic of South Africa.

Article 2

Objectives

The objectives of this Agreement shall be to ensure that an overall balance is achieved as regards:

- (a) the contribution of the nationals of each Party to the production costs of all films;
- (b) the usage of studios, post production facilities and laboratories of the two Parties;
- (c) the employment of nationals of the two Parties as creative, craft and technical personnel; and

- (d) the participation of nationals of the two Parties in each of the major creative, craft and technical categories and, in particular, that of the writer, director and lead cast.

Article 3

Recognition as a National Film and Entitlement to Benefits

- (1) A co-production film shall be fully entitled to all the benefits which are or may be accorded to national films by each of the Parties under the domestic laws in force in their respective countries.
- (2) Any benefits which may be granted by either Party in relation to a co-production film shall accrue to the co-producer who shall be permitted to claim those benefits in accordance with the domestic laws in force in the country of that Party, subject to any other relevant international obligations.
- (3) Such subsidies, tax incentives or other financial benefits may not be assigned or disposed of except to or for the benefit of a legal entity or national of that co-producer's country, or in the case of a third country co-production under Article 6 (Third Country Co-Productions), any individual or legal entity that falls within the relevant scope of the film or audiovisual agreement referred to in that Article.
- (4) A film made in accordance with an approval by the Competent Authorities under this Agreement but completed after the termination of this Agreement shall be treated as a co-production film and its co-producers shall accordingly be entitled to all the benefits of this Agreement.

Article 4

Approval of Projects

- (1) Co-production films shall require joint approval of the Competent Authorities prior to the commencement of shooting. Approvals shall be in writing and shall specify the conditions upon which it is granted. None of the co-producers shall be linked by