



## REGULATION

### **Supporting companies in economic sectors related to tourism in relation of the spread of the coronavirus that causes the COVID-19 disease**

The Regulation is established on the basis of subsection 53<sup>1</sup> (1) of the State Budget Act.

#### **Chapter 1 General provisions**

##### **§ 1. Scope of application**

- (1) The target group of the support is an undertaking in an economic sector related to tourism whose economic activities have been negatively affected by the exceptional circumstances caused by the outbreak of the coronavirus that causes the COVID-19 disease.
- (2) According to the regulation, state aid is granted on the basis of section 3.1 of the Communication from the Commission Temporary Framework for State aid measures to support the economy in the context of the current COVID-19 outbreak (OJ C 91 I, 20 March 2020, pp 1–9, hereinafter the COVID-19 Framework) of 19 March 2020 and the provisions of the COVID-19 Framework and § 34<sup>1</sup> of the Competition Act will be applied thereto.
- (3) Support will be granted on the basis of the regulation as of the adoption of the decision authorising State aid by the European Commission.
- (4) The conditions set forth in the Government of the Republic Regulation established on the basis of subsection 81<sup>2</sup> (1) of the State Budget Act are also applied to the grant of support in addition to this regulation.

##### **§ 2. Purpose of support**

The purpose of granting the support is to support companies in economic sectors related to tourism in relation of the spread of the coronavirus that causes the COVID-19 disease

##### **§ 3. Implementation of support**

The support applications will be processed, the payouts will be made and the supervision will be exercised by Enterprise Estonia.

## § 4. Definitions

The terms used in the regulation have the following meaning:

- 1) an accommodation undertaking, a travel service undertaking, a food service undertaking located in Tallinn Old Town and sellers of handicrafts, souvenirs or Estonian designs are defined as tourism sector entrepreneurs;
- 2) an accommodation undertaking means a private juridical person or a sole proprietor registered in the Commercial Register or the Register of Non-profit Organisations and Foundations who provides services subject to 9% value added tax and whose area of activity is an area of activity with the code Division I 551, 552 or 553 or Division Q 86905 set forth in Annex 16 Estonian Classification of Economic Activities (EMTAK) (hereinafter referred to as the *EMTAK*) to Minister of Justice Regulation No. 59 of 28 December 2005 'Procedure for Submission of Documents to Court';
- 3) a travel service undertaking means a private juridical person or a sole proprietor registered in the Commercial Register or the Register of Non-profit Organisations and Foundations whose main area of activity is an area of activity with the code Division N 791 or H 4939 set forth in EMTAK;
- 4) a food service undertaking in Tallinn Old Town means a company registered in the Commercial Register or the Register of Non-profit Organisations and Foundations whose area of activity is marked with EMTAK code Division I 56, except for the area of activity 'other food service' with the code I 5629, and who has received an authorisation in the area of food handling or an operator who has submitted a notice of economic activities and whose place of business in the state register of food and feed as of 30 November 2020 is located in a building situated in Tallinn Old Town;
- 5) The Old Town of Tallinn is an area of land the borders of which have been established in subsection 3 (2) of Government of the Republic Regulation No. 155 "Statutes of Tallinn Old Town Heritage Conservation Area" of 20 May 2003 and which are determined according to the borders of the heritage conservation area set forth in § 5 of the same regulation without the protected zone of the heritage conservation area;
- 6) a seller of handicrafts, souvenirs or Estonian design means a company registered in the Commercial Register or the Register of Non-profit Organisations and Foundations that can be found as a service provider in the Estonian tourism services data base at [www.puhkaeestis.ee](http://www.puhkaeestis.ee) under the category 'Souvenirs, handicraft' or 'Design boutiques', excluding persons selling souvenirs, handicraft and Estonian design strictly through e-commerce;
- 7) the start of the provision of services in the case of an accommodation undertaking is the time when the services subject to 9% value added tax were presented for the first time in the value added tax return submitted to the Tax and Customs Board;
- 8) the time of the first entry of the undertaking in the Commercial Register or in the Register of Non-profit Organisations and Foundations is deemed the start of operations;
- 9) in the case of a travel undertaking and a food service undertaking in the Old Town of Tallinn, turnover means the amount of turnover declared by the applicant on the value added tax returns submitted to the Tax and Customs Board;
- 10) revenue means the size of the revenue declared on value added tax return forms submitted to the Tax and Customs Board by accommodation undertakings, travel service undertakings, food service undertakings located in Tallinn Old Town and sellers of handicrafts, souvenirs or Estonian designs who are persons liable to value added tax or the applicant's sales revenues and other business revenues marked in their income disclosure or profits declared on natural person income tax returns (form E) in the case of travel service undertakings, food service undertakings located in Tallinn Old Town and sellers of handicrafts, souvenirs or Estonian designs who are not persons liable to value added tax;
- 11) in the case of accommodation undertakings, revenue means the size of revenue declared with the 9% value added tax rate on income disclosure submitted to the Tax and Customs Board;
- 12) e-service means a portal on the website of Enterprise Estonia where the applicant can submit

the required documents to Enterprise Estonia.

### **§ 5. Submission of challenges**

(1) A challenge may be filed against a decision or an action of Enterprise Estonia to Enterprise Estonia within 30 days of the day when the person became or should have become aware of the disputer decision or action, before a complaint is filed with an administrative court.

(2) Enterprise Estonia will resolve the challenge pursuant to the procedure set forth in the Administrative Procedure Act.

(3) The information, documents and decision related to the challenge will be delivered to the person filing the challenge electronically.

## **Chapter 2**

### **Grounds of granting support and amount of support**

#### **§ 6. Types of support**

The following support arising from the outbreak of the virus that causes the COVID-19 illness will be paid on the basis of the Regulation:

- 1) support for partial compensation for the turnover decrease of an accommodation undertaking;
- 2) support for partial compensation for the turnover decrease of a travel undertaking;
- 3) support for partial compensation for the decrease in turnover of a food service undertaking in the Old Town of Tallinn;
- 4) support for partial compensation for the decrease in turnover of a seller of souvenirs, handicrafts or Estonian design.

#### **§ 7. Support for partial compensation for the decrease in turnover of an accommodation undertaking**

(1) An accommodation undertaking eligible to apply for support for partial compensation for turnover decrease is an accommodation undertaking whose total decrease in turnover subject to 9% value added tax from 1 April to 30 November 2020 was at least 50% in comparison with the total turnover subject to 9% value added tax in the same period in 2019.

(2) If an accommodation undertaking started providing services in the period from 1 April to 30 November 2019, the accommodation undertaking may apply for support if the decrease in its turnover subject to 9% value added tax since the start of the period of service provision until 30 November 2019 compared with the same period in 2020 was at least 50%.

(3) If an accommodation undertaking started providing services on 1 December 2019 or later, it may apply for support if it has paid labour taxes since the start of the period of service provision until 30 November 2020 in the amount of at least 800 euros in each calendar month.

(4) The amount of the support payable to an accommodation undertaking in the case of the accommodation undertaking set forth in subsection (1) is 15% of the decrease in its turnover subject to 9% value added tax in 2020 in the period specified in subsection (1), but no more than 180,000 euros.

(5) The amount of the support payable to an accommodation undertaking in the case of the accommodation undertaking set forth in subsection (2) is 15% of the decrease in its turnover subject to 9% value added tax in the period in 2020 specified in subsection (2), but no more than 180,000 euros.

(6) The amount of the support payable to an accommodation undertaking set forth in subsection (3) is 100% of the labour taxes paid in the period since the start of service provision until 30 November 2020, but no more than 180,000 euros.

### **§ 8. Support for partial compensation for the decrease in turnover of a travel undertaking**

(1) A travel undertaking may apply for support for partial compensation for the damage of a travel undertaking if:

- 1) its total turnover decrease from 1 April to 30 September 2020 was at least 70% in comparison with the total turnover of the same period in 2019 and
- 2) the total amount of labour taxes it paid for 2019 was at least 5000 euros.

(1<sup>1</sup>) If the travel service undertaking began their practice between 1 April and 30 September 2019, they may apply for the partial reimbursement of damages to travel service undertakers if:

- 1) the decrease in its turnover since the start of operations until 30 November 2019 compared with the same period in 2020 was at least 70% and
- 2) the total amount of labour taxes it paid for 2019 was at least 5000 euros.

(2) The amount of the support for partial compensation for damages payable to a travel undertaking is 100% of the labour taxes paid by the travel undertaking for 2019, but no more than 80,000 euros.

### **§ 9. Support for partial compensation for the decrease in turnover of a food service undertaking in the Old Town of Tallinn**

(1) A food service undertaking in the Old Town of Tallinn may apply for the support for partial compensation for the decrease in turnover of a food service undertaking in the Old Town of Tallinn if:

- 1) its total turnover decrease in from 1 April to 30 November 2020 was at least 60% in comparison with the total turnover of the same period in 2019 and
- 2) the total amount of labour taxes it paid for 2019 was at least 7,500 euros.

(2) If a food service undertaking in the Old Town of Tallinn started operating in the period from 1 April to 30 November 2019, it may apply for support if:

- 1) the decrease in its turnover since the start of operations until 30 November 2019 compared with the same period in 2020 is at least 60% and
- 2) the labour taxes it paid for since the start of operations until 30 November 2019 per calendar month amounted to at least 600 euros on average.

(3) If a food service undertaking in the Old Town of Tallinn started operating on 1 December 2019 or later, it may apply for support if it has paid labour taxes since the start of the period of operations until 30 November 2020 in the amount of at least 400 euros on average in each calendar month.

(4) The amount of the support for partial compensation for damages payable to a food service undertaking in the Old Town of Tallinn in the case of the food service undertaking in the Old Town of Tallinn set forth in subsections (1) and (2) is 100% of the labour taxes paid by the food service undertaking in the Old Town of Tallinn for 2019, but no more than 80,000 euros.

(5) The amount of the support for partial compensation for damages payable to a food service undertaking in the Old Town of Tallinn in the case of the food service undertaking in the Old Town of Tallinn set forth in subsection (3) is 100% of the labour taxes paid by the food service undertaking in the Old Town of Tallinn since the start of operations until 30 November 2020, but no more than 80,000 euros.

### **§ 10. Support for partial compensation for the decrease in turnover of a seller of souvenirs and handicrafts**

(1) A seller of handicraft, souvenirs and Estonian design may apply for support for partial compensation for the decrease in turnover of a seller of handicrafts and souvenirs if:

- 1) its turnover decrease in from 1 April to 30 November 2020 was at least 60% in comparison with the turnover of the same period in 2019 and
- 2) the total amount of labour taxes it paid for 2019 was at least 5,000 euros.

(1<sup>1</sup>) If the seller of handicraft, souvenirs and Estonian design begun their practice between 1 April and 30 November 2019, they may apply for the partial reimbursement of damages to sellers of handicraft, souvenirs and Estonian design if:

- 1) the decrease in its turnover since the start of operations until 30 November 2019 compared with the same period in 2020 was at least 60% and
- 2) the total amount of labour taxes it paid for 2019 was at least 5000 euros.

(2) The amount of the support payable to a seller of handicrafts and souvenirs is 100% of the labour taxes paid by the seller of handicrafts and souvenirs for 2019, but not more than 60,000 euros.

## **Chapter 3**

### **Applying for support and requirements for applicants and applications**

#### **§ 11. Applying for support**

(1) The minister responsible for the sector establishes the budget for funding and the deadline for applying for the type of support set forth in § 6.

(2) If the sum of the eligible applications submitted in the case of support set forth in § 6 is smaller than the budget for financing the support, the Ministry of Economic Affairs and Communications will use the budgetary funds for financing said support for financing the budgets of the other support.

(3) Application for support takes place in stages. The grant of support is decided after the deadline for submission of applications. If the budget for financing the support is not sufficient for granting all of the eligible applications at the rate set forth in §§ 7–10, the budgetary funds of the support will be divided between the applications subject to be granted in proportion to the ratio of the budget of the respective support to the total amount of the respective applications.

(4) Enterprise Estonia will publish the information about the start of the acceptance of applications and application deadlines on its website and in its e-service.

(5) An application can be submitted to Enterprise Estonia via the e-service with the digital signature of the applicant's legal representative.

(6) An undertaking in an economic sector related to tourism may receive one of the supports set forth in § 6.

## **§ 12. Requirements for the applicant**

An applicant must comply with the following requirements:

- 1) the applicant is not an undertaking in difficulty pursuant to Commission Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26 June 2014, pp 1–78), (amended with Commission Regulation (EU) 2017/1084 (OJ L 156, 20 June 2017, pp 1–18) (hereinafter the General Block Exemption Regulation) within the meaning of Article 2(18) as at 31 December 2019;
- 2) as an exception from the provisions of clause 1), an applicant may be a micro or small undertaking within the meaning of Annex I to the General Block Exemption Regulation that was already in difficulties on 31 December 2019, under the conditions of article 22 of the COVID-19 framework;
- 3) the aid granted to the applicant on the basis of part 3.1 of the COVID-19 framework with the support granted on the basis of this regulation may not exceed the sum set forth in point 22a of the COVID-19 framework;
- 4) the applicant had no national tax arrears as at 12 March 2020 or they have been paid or deferred by the time the application is submitted;
- 5) the applicant has complied with the obligation to submit tax returns and annual reports by the time the application is submitted;
- 6) no compulsory dissolution, liquidation or bankruptcy proceedings have been initiated against the applicant or the person who controls the applicant;
- 7) an applicant who is a sole proprietor has not been deleted from the Commercial Register as at the date the application was submitted and will not be deleted before the decision on the support application is made;
- 8) if the applicant has already received support subject to repayment and the due date of the repayment has arrived, the repayments must have been made in the required amount by the moment the application is submitted;
- 9) if the applicant has received support from a local government other state budget funds or other measures on account of the funds to be allocated on the basis of the 2020 Supplementary State Budget Act due to the crisis resulting from the spread of the coronavirus that causes the COVID-19 disease, the applicant must inform Enterprise Estonia about the receipt of such support on the application form.
- 10) if the applicant is an accommodation undertaking or a food service undertaking in the Old Town of Tallinn, the applicant's accommodation undertaking or food service undertaking in the Old Town of Tallinn is still open or temporarily closed for a certain determined period.

## **§ 13. Requirements for application**

An application must include the following information:

- 1) name, registry code, telephone number, e-mail address, website and postal address, current account number of the applicant;
- 2) name of the project;
- 3) brief description of the impact of the outbreak of the coronavirus that causes the COVID-19 disease on the applicant's economic activities;
- 4) the amount of the requested support;
- 5) if the applicant is a food service undertaking in the Old Town of Tallinn, the address of the place of business of its food service company;

- 6) if the applicant is a seller of handicraft, souvenirs or Estonian design, add a link to their services in the Estonian tourism services database at [www.puhkaeestis.ee](http://www.puhkaeestis.ee) and the address to their handicraft, souvenir or Estonian design store;
- 7) confirmation of the applicant of its compliance with the requirements set forth in § 12;
- 8) scheme of group members if the group is not shown in the Commercial Register;
- 9) income statement and balance sheet as at 31 December 2019 if they are not accessible in a public register, the income tax return of a natural person for 2019, and confirmation of an applicant belonging to a group that the group was not in difficulties as at 31 December 2019;
- 10) if the travel service undertaking, food service undertaking located in Tallinn Old Town or seller of handicrafts, souvenirs or Estonian designs is not a person liable to value added tax, then profit revenues or accounting records for the relevant months, and if the applicant is a sole proprietor, then sole proprietor natural person tax returns.

## **Chapter 4**

### **Processing of applications and payment of support**

#### **§ 14. Processing of applications**

- (1) The processing of applications entails:
  - 1) registration of the application;
  - 2) requesting explanations and additional information if necessary;
  - 3) verification of the eligibility of the applicant and the application;
  - 4) assessment of compliance with the rules of state aid;
  - 5) grant or rejection of the application.
- (2) The application date is the date when the applicant submits the application in e-service.
- (3) The deadline for processing an application is up to 25 days from the day the acceptance of applications ends. Enterprise Estonia may extend the time of processing the application by up to 10 working days in justified cases and the applicant will be informed about this.
- (4) If deficiencies are found in the application, the applicant will be informed about this immediately and given a deadline of up to 10 working days for correction of the deficiencies, by which the deadline for processing the application will also increase.

#### **§ 15. Grant of application, partial grant or rejection of application**

- (1) Enterprise Estonia makes the decision to grant the application or grant the application in part in the case of an eligible applicant and application.
- (2) The decision to grant an application partially is made in the case of an eligible applicant and application if granting the application in full is not possible because the budgetary funds for financing the support have run out, in the case specified in subsection 11 (3) or if the requested amount does not comply with the provisions of §§ 7–10.
- (3) The decision to reject an application is made if the applicant or the application does not comply with the terms and conditions of the Regulation and the applicant does not correct the deficiencies by the deadline specified in subsection 14 (3).
- (4) Enterprise Estonia makes the decision to grant, to partially grant or to reject an application and delivers it to the applicant via the e-service.

#### **§ 16. Terms and conditions for payment of support**

The support will be paid out to the recipient in up to 10 working days after the decision to grant the application was made.

## **Chapter 5**

### **Rights and obligations of support recipients and Enterprise Estonia**

#### **§ 17. Rights and obligations of support recipient**

(1) The support recipient has the right to receive information and explanations from Enterprise Estonia that concern legal requirements and the obligations of the support recipient.

(2) The support recipient is obliged to:

- 1) submit information at the request of Enterprise Estonia in the required manner and by the required time;
- 2) allow Enterprise Estonia, the European Commission, the European Anti-Fraud Office and the European Court of Auditors to carry out one-site inspections and supervision of the documents related to the support;
- 3) preserve the documents and materials related to the application for seven years after the payout of the support;
- 4) immediately inform Enterprise Estonia in writing of any changes in the submitted data or of any circumstances that may affect the performance of the support recipient's obligation;
- 5) repay the support in part or in full if it becomes evident that the support recipient is in breach of the terms and conditions of the Regulation or deviates from provisions of the application or the decision to grant the application in any other manner.

#### **§ 18. Rights and obligations of Enterprise Estonia**

(1) Enterprise Estonia has the right to:

- 1) carry out on-site inspections;
- 2) request submission of additional data and documents about the content of the application;
- 3) claw back the support in part or in full if it becomes evident that the support recipient is in breach of the terms and conditions of the Regulation or deviates from provisions of the application or the decision to grant the application in any other manner;
- 4) after the grant of support, exercise a follow-up inspection of the applicant's compliance with the rules of state aid, if appropriate;
- 5) receive the data that are the basis for the decision to grant the support from the Tax and Customs Board for monitoring purposes.

(2) Enterprise Estonia is obliged to:

- 1) advise the applicants in issues related to the application;
- 2) make the application form and the relevant guidelines accessible on its website;
- 3) when clawing back the support, stipulate the grounds of the clawback, the amount clawed back, the deadline for compliance with the decision and other important information concerning the decision in the respective decision;
- 4) not disclose the information or documents received about the applicants and the applications during the proceedings;
- 5) after the decision to grant the application, make the name of the support recipient, the name of the support measure and the amount of the support accessible on its website;
- 6) preserve the documents related to the grant of the support for 10 years as of the grant of the support.

#### **§ 19. Repayment of support**



- (1) Enterprise Estonia may make the decision to claw back the support in part or in full if:
- 1) the support recipient has submitted false information or failed to submit information upon application;
  - 2) the support recipient has failed to perform an obligation specified in this Regulation in part or in full;
  - 3) a circumstance appears in the case of which the application would not have been granted.

(2) The decision to claw back the support may be made within a year after the complete performance of the last obligation of the applicant. The support recipient must repay the clawed back support within 60 calendar days of the day the decision enters into force. If the support is not paid back by the due date of repayment, EAS may ask the recipient of the subsidies default interest at the rate of 0.1 per cent for each calendar day of delay in repayment.

(3) In the case of unlawful or misused state aid, the grant provider will claw back the support with interest pursuant to Article 9 of Commission Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30 April 2004, pp 1–134), the interest rates published for information of the Member States on the basis of Article 10 and the method for applying interest specified in Article 11.

(4) The grant provider has the right to claw back unlawful or misused state aid within 10 years of the decision to grant the application.

## **Chapter 6**

### **Entry into force**

#### **§ 20. Entry into force of the Regulation**

The Regulation will enter into force on the day when the amendment to the regulation of the Government of the Republic, established on the basis of subsection 81<sup>2</sup> (1) of the State Budget Act, enters into force, which makes it possible to assume obligations on account of the funds allocated on the basis of the 2020 Supplementary Budget Act after 31 December 2020.

(digitally signed)

Raul Siem

Minister of Foreign Trade and Information Technology

(digitally signed)

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