



Australian Government



INTERNATIONAL CO-PRODUCTION PROGRAM GUIDELINES

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1. INTRODUCTION

Australia is part of a network of countries which provide formal arrangements to enable a film or television program to be officially co-produced between two or more of those countries. These formal arrangements may take the form of a treaty or a memorandum of understanding (MOU), which are collectively referred to as ‘co-production arrangements’ in these guidelines.

To be considered an ‘official co-production’, a project must be approved as such by the ‘competent authorities’ of each of the co-producing countries, and must comply with all of the provisions of the relevant co-production arrangement. These provisions vary from country to country. For example, some co-production arrangements are specifically limited to feature films, while others extend to television drama and documentary, animation and other formats. In these guidelines, the term ‘film’ is used generically for convenience.

For more definitions, see section 10, page 17.

1.1. Arrangements generally

A treaty is a formal arrangement between the governments of two or more countries. An MOU is an arrangement between governments or government agencies of two or more countries. While an MOU has less-than-treaty status, in Australia in the context of film co-productions, it has the same practical and regulatory effect as a treaty.

A film approved and made under a co-production arrangement is treated as a ‘national film’ of each of the participating countries, being accorded all the benefits attaching to such films. In the Australian context, such benefits include:

- bypassing the ‘significant Australian content’ (SAC) test for accessing the Producer Offset
- being eligible for production investment from Screen Australia as well as state and territory screen agencies, and
- comprising ‘Australian content’ for the purposes of broadcaster quotas.

1.2. Partner countries

Australia currently has treaties with:

- Canada
- China
- Germany
- Ireland
- Israel
- Italy
- Singapore
- South Africa
- the United Kingdom.

Australia is currently a signatory to MOUs with France and with New Zealand.

Australia is currently negotiating co-production arrangements with India, Denmark, Malaysia and the Republic of Korea, and is renegotiating the treaties with Canada and the United Kingdom, and the MOU with France. See Screen Australia's Co-productions website (www.screenaustralia.gov.au/coproduction) for further information.

1.3. Requests for new arrangements

The identification of new co-production partners and the negotiation of co-production arrangements are managed by the Australian Government department responsible for the arts. Submissions suggesting new partners can be made to the department, based on the *Guidelines for entering film co-production arrangements*, available at www.arts.gov.au/film/film_australian_international_co-production_program

Submissions should be addressed to:

Department of the Prime Minister and Cabinet – Office for the Arts
PO Box 6500
CANBERRA ACT 2601
filmenquiries@pmc.gov.au
www.arts.gov.au/film-tv

1.4. About these guidelines

Screen Australia is the competent authority responsible for administering the International Co-production Program in Australia. It has produced these guidelines to outline the requirements of Australia's co-production arrangements, and the application process for approval as an official co-production.

Australian co-producers should read these guidelines in conjunction with the application forms available on the Screen Australia website.

Screen Australia reserves the right to vary these guidelines from time to time. It is the responsibility of the Australian co-producer to consult and comply with the Screen Australia *International Co-production Program Guidelines* relevant at the time of the application. It is also the responsibility of the Australian co-producer to ensure that the co-producers' agreement complies with the relevant co-production arrangement.

In addition, Screen Australia reserves the right to depart from these guidelines where necessary. Such a departure could be permitted, for example, where an application does not comply with the guidelines but should, in the view of the agency, be approved for some special reason. Screen Australia expects that any such departure would occur only in exceptional circumstances and it will be up to the Australian co-producer to satisfy Screen Australia that relevant exceptional circumstances exist and that the application should be approved.

In all cases, a film cannot be given co-production approval unless it complies with the terms of the relevant co-production arrangement and all relevant competent authorities agree to approve the film.

Australian producers intending to produce a film as an official co-production are encouraged to contact Screen Australia early in the

process so that they can be aware of the requirements of the relevant co-production arrangement when setting up the creative and financial structure of their project.

2. OVERVIEW

The fundamental idea behind an official co-production is that two (or more) producers from two (or more) countries co-produce a film. Each co-producer raises a certain proportion of the budget of the film and provides a reasonably equivalent proportion of the ‘creative contribution’ to the film.

Subject to some specific exceptions that are discussed below, all personnel involved in making the film must be from the co-producing countries and the film must be made in the co-producing countries.

Generally, one party is the ‘majority’ co-producer, with that co-producer raising the majority of the budget and the majority of the creative contribution to the film being provided by nationals or permanent residents of that producer’s country.

All co-production arrangements require that each co-producer has a level of creative contribution to the film reasonably equivalent proportionally to the finance raised by that co-producer.

In addition, it is a requirement of these guidelines that the percentage of the budget raised by the Australian co-producer must be reasonably equivalent to the proportion of the budget spent on Australian elements.

Each competent authority assesses the requirements of the relevant co-production arrangement in accordance with its own guidelines and it is the responsibility of each co-producer to liaise with the competent authority in its country to ensure that the film meets its requirements.

All co-production arrangements also require an overall balance of the creative, technical and financial elements across all co-productions over a number of years. A project otherwise eligible under the relevant co-production arrangement and these guidelines may not receive provisional approval as an official co-production if it would result in an unacceptable imbalance within a series of official co-productions under the arrangement. This is referred to as the ‘**balance over time**’ principle (see page 12).

In order to qualify as an official co-production under any co-production arrangement, a co-producer must apply for **provisional approval** when finance is committed, but before production commences (see section 6.1 on page 13). At provisional application stage, the Australian co-producer will need to satisfy Screen Australia that:

- there is a producer from each country (the co-producers);
- a co-producers’ agreement is in place between the co-producers that outlines the responsibilities and rights of each co-producer and fulfils all the requirements of the relevant co-production arrangement;
- the financial contribution of each co-producer is secure and committed, including where relevant, the minimum contribution of a third-party co-producer;

- the Australian producer's financial contribution is reasonably similar proportionally to the Australian creative contribution; and
- the Australian producer's financial contribution is reasonably similar proportionally to the spend on Australian elements.

Screen Australia assesses the Australian 'creative contribution' by reference to the Australian Qualifying Points (AQP) of the film, using a '**points test**', which is outlined in section 5 (page 10).

To assist in raising finance, an optional, non-binding **letter of preliminary compliance** may be sought before applying for provisional approval, which is explained further in section 6.3 (see page 14).

Once the film is finished, an application for **final approval** must be made in order to secure official co-production status (see section 6.2 at page 14). At this point, in addition to providing all of the executed financing agreements, the Australian co-producer must provide a DVD copy of the finished film, the final budget, full cast and crew list and other documents as required by Screen Australia.

It is important to note that Screen Australia will not be in a position to give final approval until the relevant overseas competent authority has confirmed its approval.

3. ELIGIBILITY

To be eligible for official co-production status, each co-production must comply with the requirements of these guidelines and the relevant co-production arrangement. Most co-production arrangements to which Australia is a party have similar eligibility requirements. Where the co-production arrangements' requirements differ, the differences are outlined in the following sections. However, Australian co-producers should also familiarise themselves with the details of the relevant co-production arrangement in each case.

3.1. Producers

By definition, there must be a producer from each co-production country, known as a co-producer. From Australia's point of view, as executive producers on feature films are not considered creative roles, executive producers may be from a non-party country where it can be demonstrated that the executive producer does not play a technical or creative role.

In order to be recognised as such, the co-producers must be genuine creative producers; that is, the mere contribution of finance is not sufficient.

3.2. Copyright

The Australian co-producer must retain a share of copyright in the co-production, at least by the time that an application is made for final approval. This refers to copyright in the finished film, not copyright in any underlying work.

3.3. Where the work must take place

The co-production arrangements provide that the film must be made in the co-production countries. The means that the entire film – generally from pre-production up to and including the striking of a release print or digital equivalent – must be made in the co-producing countries. Note, however, that some co-production arrangements provide for the competent authorities to consider requests to undertake location filming outside the co-producing countries in exceptional circumstances (see section 3.3[a] below).

Further, some flexibility exists in the Australia–Singapore treaty, which allows the competent authorities to jointly approve filming elsewhere where filming in Singapore or Australia is technically impossible.

The Australia-New Zealand MOU is silent on the issue of where the film is to be made.

The table below outlines the requirements of the various arrangements.

Place where the film is to be made:	Films shall be made (including studio and location shooting), dubbed (where relevant) and processed up to first release print in Australia, the co-producing country or the country of a third co-producer.
UK, China, Germany, Ireland, Israel, South Africa	As above
Canada	As above (up to answer print)
France	As above And distribution copies shall be processed in each relevant country.
Italy	As above And all distribution copies shall be processed in the country holding minority financial participation.
Singapore	As above But the competent authorities may jointly approve an exception to the above if, and only to the extent that, compliance with the requirement is technically impossible.
New Zealand	Silent on where the film is to be made.

3.3(a) Location filming

Most co-production arrangements also allow location filming to be undertaken in a non-party country (for example where the script requires the film to be shot in such a country because of geographical features). This is usually subject to the approval of the relevant competent authorities.

Canada, China, Germany, Israel, Ireland, Italy, Singapore, South Africa, UK	The competent authorities shall have the power to approve location filming in a country other than the countries of the participating co-producers.
France, New Zealand	Silent on location shooting

Where location filming has been approved by the competent authorities, co-production arrangements generally provide for limited numbers of non-key participants from the country/ies in which location filming has been approved (such as local crowd artists or local technicians) to be engaged, subject to the approval of the competent authorities.

The relevant requirements are outlined in the table below.

Canada, Germany,	Where the competent authorities have approved location filming
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Ireland, Israel, Singapore, South Africa	in a country other than that of participating co-producers, nationals or residents of that country may be employed as crowd artists, in small roles, or as additional employees whose services are necessary for the location work to be undertaken.
China, Italy, UK	As above But only if the conditions of employment for non-party nationals are, in broad terms, no less favourable than those of the co-production countries.
France	Silent on foreign personnel and crowd artists
New Zealand	Subject to the approval of the competent authorities, the participation of persons other than Australians and New Zealanders can be allowable where the co-production film requires it.

3.4. Participants

Participants in the making of the film **must be nationals or permanent residents of Australia or the co-producing country/ies**. (But note sections 3.4[c] and 3.4[d] with respect to European and New Zealand nationals.) The terms 'nationals' and 'permanent residents' are defined in the relevant co-production arrangement.

Exceptions to this rule exist for location filming (see 3.3[a] above), and key cast (see 3.4[b] below). Depending on the arrangement, a limited contribution to the screenplay may also be made by a writer from outside the co-producing countries (see 3.4[a] below).

Generally, credited roles which are not creative or technical roles and are not part of the making of the film, such as executive producers and assistants, need not be from the co-producing countries.

3.4(a) Screenwriters

The screenplay must be attributed to a writer or writers who are nationals or permanent residents of one of the co-producing countries.

Subject to the terms of the relevant co-production arrangement, a writer who is not a national or permanent resident of one of the co-producing countries can contribute to the screenplay, provided that the person is not a *credited writer* of the screenplay (as that term is understood by the Australian Writers' Guild or equivalent organisation).

This flexibility can only apply where the relevant co-production arrangement permits it. As of 1 October 2010, the following co-production arrangements permit such flexibility:

- *Ireland and Israel*: Generally, the people involved in the making of the film must be from the co-producing countries, but these treaties permit the competent authorities to agree that screenwriters from non-party countries may be involved in the making of the film.
- *New Zealand*: Generally, the people involved in the making of the film must be from the co-producing countries, but the MOU permits the competent authorities to agree that screenwriters from non-party countries may be involved in the making of the film.
- *France*: The MOU is silent on the involvement of screenwriters, so approval is at the discretion of the competent authorities.

3.4(b) Key cast

Most co-production arrangements to which Australia is a party allow the use of one or a small number of actors from countries other than the co-producing countries where the following criteria are met:

- the script (for example, for reasons of ethnicity of character) or financing (for example, where financiers demand a certain cast-member) dictates their involvement;
- the competent authorities approve the request; and
- only in exceptional circumstances.

This must be supported by documentation. The table below outlines how the various co-production arrangements provide for this issue.

Italy, Germany, Ireland, Israel, New Zealand, Singapore, South Africa, UK	In exceptional circumstance, where script or financing dictates, but subject always to the approval of the competent authorities, restricted performers from non-party countries may be engaged.
Canada	As above but only internationally recognised performers
France	Silent on non party country performers

Australian co-producers should note that it is a requirement of these guidelines that in all majority Australian co-productions (ie where the Australian financial participation is greater than 50 per cent) which are feature films or television drama, at least one of the four lead roles must be cast with an Australian actor.

3.4(c) European nationals

Generally, nationals or permanent residents of one EU Member State are considered to be nationals or permanent residents of all the others.

This means that, for co-productions between Australia and the UK, Ireland, Italy or Germany, a person from any other EU country is considered to be a national of the co-producing country for the purposes of the relevant treaty and these guidelines. In the case of France, where the arrangement is an MOU, producers should contact the French competent authority, the CNC, regarding the treatment of other European nationals.

There are currently 27 EU Member States, which are listed at europa.eu/abc/european_countries/eu_members/index_en.htm.

3.4(d) NZ nationals

Similarly, under the terms of an agreement between Screen Australia and its New Zealand equivalent, the New Zealand Film Commission, Australians and New Zealanders receive mutual recognition in co-productions. This means that New Zealand nationals or permanent residents are considered to be Australians when working on official co-productions (and vice versa).

This cannot apply to an Australia–New Zealand co-production, in which case Australians will only be considered to be Australians, and New Zealanders considered New Zealanders.

3.5. Underlying works

Subject to the terms of the relevant co-production arrangement, a film may be based on an underlying work (such as a novel) from any country.

3.6. Financial and creative participation levels

Australian minimum participation levels are set out in each co-production arrangement. The minimum is typically 20 or 30 per cent and because the producer's creative and financial contributions must be reasonably similar proportionally, this minimum applies to both the Australian co-producer's contribution to the budget and the Australian creative contribution, assessed using the points test (see section 4).

These guidelines allow some leeway in relation to the balance between financial and creative contribution. The permitted margin is 5 per cent. However, in all cases, both the financial and creative contribution must meet or exceed the minimum in the relevant co-production arrangement

The following table outlines the minimum participation levels in the current co-production arrangements.

Relevant co-production arrangement	Minimum participation specified
Canada, Italy, UK	30%
China, Ireland, Israel, Singapore, South Africa	20%
France	Australian co-producers 40–80%; French co-producers 20–60%
Germany	30% (if three-way co-production then reduced to 20% minimum)
New Zealand	No minimum specified

3.7. Spend on Australian elements

In addition to the minimum participation requirements set out in the co-production arrangements (see 3.6 above), it is a requirement of these guidelines that the proportion of the budget raised by the Australian co-producer must be reasonably similar to the proportion of the budget spent on Australian elements.

Expenditure on Australian elements may include cast, crew, facilities and materials, per diems of all Australians and their cost of travel and accommodation whether incurred in Australia or not. Additionally, a percentage of contingencies, of the cost of insurances and of a completion guarantee may be included, as may legal costs incurred by the Australian producer, and the cost of any non-party services acquired by the Australian co-producer. For clarity, expenditure on Australian elements is unlikely to equate with Qualifying Australian Production Expenditure (QAPE) for the purposes of the Producer Offset.

Some leeway is permitted in meeting this requirement: the proportion of expenditure on Australian elements can be up to 5 per cent less or up to 15 per cent more than the financial contribution of the Australian co-producer.

This means, for example, that if the Australian financial contribution is 60 per cent, the expenditure on Australian elements must be between 55 per cent and 75 per cent of the total budget.

3.8. Co-producers' agreement

Each co-production is made in accordance with an agreement entered into by each of the co-producers, which outlines the relevant rights and responsibilities of each party. The specific requirements that must be addressed in the co-producers' agreement vary according to the requirements set out in the relevant co-production arrangement(s).

Requirements addressed in the arrangements include, for example, copyright and intellectual property ownership, contingencies to cover non-approval of the co-production application by a competent authority, timetables for delivering financial contributions, crediting of the film as an official co-production, and the assignment and disposal

Applicants **must** consult the relevant arrangement(s) prior to lodging an application and ensure that the draft co-producers' agreement addresses each specific requirement of the arrangement(s). Provisional co-production approval will not be given until the draft co-producers' agreement accords with the requirement of the relevant arrangement(s).

4. THE POINTS TEST FOR CREATIVE CONTRIBUTION

4.1. Australian Qualifying Points

These guidelines introduce the term 'Australian Qualifying Points' (AQP), which are the creative points allocated to the Australian side of a co-production. As a percentage of the total creative points the AQP must reach at least the minimum contribution level prescribed by the relevant co-production arrangement.

As noted above, the AQP must also be reasonably similar proportionally to the financial contribution that the Australian co-producer makes to the co-production – for example, if the Australian co-producer contributes half the finance, then half the points should be AQP. Subject to the minimum contribution allowed in the relevant co-production arrangement (as outlined in section 3.6 above), these guidelines, allow a 5 per cent margin (either way), so if the Australian co-producer's financial contribution is 60 per cent, the AQP can be between 55 and 65 per cent.

Key creative roles are allocated a points value. If the person filling that role is an Australian national or permanent resident, a point is scored for that role. Please note that:

- producers do not attract points because there must be, by definition, one from each of the co-producing countries;
- an individual cannot be treated as two nationalities in one application;
- splitting of points may be approved on a case-by-case basis (for example, where each co-producing country has one writer each engaged on a television series);
- voicing or narrating in the language of each co-production country will result in the points being split, ie for an animation, voice cast is allocated

3 points, so if one voice track is undertaken in Australia and one track in the co-producing country, then the project scores 1.5 of AQP; and

- for feature films and television drama, if the film is a majority Australian co-production (ie Australian financial contribution is greater than 50 per cent), at least one of the four lead roles must be filled by an Australian national or permanent resident (ie there must be at least one point for key cast).

4.2. Completing the test

Different points tests apply for drama (the same test applies to both feature films and TV drama), documentaries and TV animation, reflecting the differences in the key creatives/technical personnel for these different types of project. Each of the tests aims to provide a degree of flexibility by allowing a certain number of discretionary points to be claimed.

Each test has a set number of roles that are always counted (top-line key creative roles). These roles attract 'compulsory points'. In addition, the Australian co-producer may select roles in the discretionary point section to make up the level of points required for the film. However, where an Australian co-producer selects a role for a discretionary point, but Screen Australia does not consider the role to be a key creative role, Screen Australia reserves the right not to accept the allocated discretionary points.

In addition, each test includes a potential point for 'Other creative role'. If an Australian co-producer wishes to claim this point, the Australian co-producer must convince Screen Australia that the role in question is particularly important for the film. For example, if the film is a martial arts feature, it may be possible to allocate a point to the fight choreographer; or for a musical, to the musical director or choreographer.

4.3. Points values

FEATURE FILMS and TV DRAMA	15 points
Compulsory points	
Writer	2
Director	2
DoP	1
Editor/Picture Editor	1
Cast (four principal roles) – NB if majority Australian co-production, at least 1 role must be filled by an Australian actor	4
Discretionary points (select 5 of the below)	
Composer	1
Costume Designer	1
Production Designer	1
Script Editor	1
Sound Designer	1
Underlying work	1
VFX Supervisor	1
Other senior key role specific to the film such as choreographer, special make-up design etc.	1
Total points	15

DOCUMENTARY	10 points
Compulsory points	
Writer	2
Director	2
DoP	1
Editor/Picture Editor	1
Discretionary points (select 4 of the below)	
Composer	1
Researcher	1
Narrator	1
Sound Designer, Recordist, Sound Editor or Mixer	1
Underlying work/subject matter	1
Other senior key role specific to the film such as underwater DoP, art director, VFX supervisor etc.	1
Total points	10
ANIMATION 3D/ 2D	13 points
Compulsory points	
Writer	2
Director/Animation Director	2
Cast	3
Key Animator	1
Storyboard Artist	1
Discretionary points (select 4 of the below)	
Editor/Picture Editor	1
Key Background Artist	1
Composer	1
Sound Designer	1
Underlying work	1
Key Model Designer	1
Voice/actors director	1
Other senior key role specific to the film such as 3D modeller, digital compositor, previs animator etc.	1
Total points	13

5. BALANCE OVER TIME

Australia's co-production arrangements are intended to benefit the economies, industry personnel, film studios and laboratories of both partner countries.

To achieve this, Australia's co-production arrangements require a balance over time of the financial and creative participation of partner countries.

It is recognised that there is likely to be some imbalance in the participation rates of co-producers from partner countries on particular projects. However, over time the participation of the partner countries should be close to equal. The competent authorities in each country monitor the contributions of each partner country under each arrangement – over many different productions – to ensure a balance over time.

6. APPLICATION PROCESS AND ASSESSMENT

The Australian co-producer must apply to Screen Australia on the relevant application form, available at www.screenaustralia.gov.au/coproduction, and the application must be accompanied by the materials specified on that form.

The foreign producer(s) must make separate but equivalent applications to, and as required by, the competent authority/ies in their own country/ies. Under the terms of the co-production arrangements, approval is given 'jointly' by the relevant competent authorities; Screen Australia will consult with all relevant competent authorities before making a decision on eligibility.

Generally, six weeks from receipt of a complete application is required to assess the project before it can be considered by Screen Australia's Producer Offset and Co-production Committee (the Committee).

The Committee will not consider inadequately prepared or incomplete applications. If the approval is required by a particular time, the Australian co-producer should allow sufficient time (based on the above) to process the application.

Unsuccessful applicants will need to lodge a new application before the project can be reconsidered.

6.1 Provisional approval

Producers should apply for provisional approval when finance is committed, but before pre-production commences.

Provisional co-production status will be granted to the Australian co-producer if Screen Australia is satisfied that:

- there is a producer from each country (the co-producers);
- a co-producers' agreement is in place (or is at least in draft form) between the co-producers that outlines the responsibilities and rights of each co-producer and fulfils all the requirements of the relevant co-production arrangement/s;
- the financial contribution of each co-producer is secure and committed, including where relevant, the minimum contribution of a third-party co-producer;
- the Australian producer's financial contribution is reasonably similar proportionally to its Australian creative contribution, based on the points test (see section 4); and
- the Australian producer's financial contribution is reasonably similar proportionally to the spend on Australian elements.

The Committee will decide whether the project complies with the guidelines, the relevant co-production arrangement/s and the overarching principle of balance over time.

Consultation will take place between Screen Australia and the foreign competent authority/ies.

The provisional approval will be valid for two years from the date of the approval and principal photography must have commenced before the provisional approval lapses. If principal photography has not commenced two years from the date of approval and the project is still going ahead, a new provisional application will need to be submitted to Screen Australia for approval.

Provisional approval as an official co-production will enable a production to apply for, but does not automatically guarantee, Screen Australia funding through the Production Investment Department. Provisional approval will also allow a production to 'by-pass' the 'significant Australian content' (SAC) test for provisional certification for the Producer Offset (although the applicant will have to meet other criteria in order to qualify for the Producer Offset).

As part of the provisional approval process, the Australian co-producer must execute a formal undertaking so that Screen Australia can be satisfied that the project will be completed according to the terms of the approval (see section 7. *Producer's Undertaking*).

Significant changes to the creative and/or financial contributions of the co-producers may affect compliance with the co-production arrangement. Failure to obtain the approval of Screen Australia in relation to any proposed material change may result in refusal of the final approval. Screen Australia must be kept informed of any such proposed changes as soon as possible.

6.2 Final approval

Once the film is complete, an application for final approval must be made in order to secure official co-production status. Subject to the terms of the co-production arrangement, a film is considered 'complete' when it is first in a form in which it can be reasonably regarded as ready for presentation to the general public.

Australian co-producers will need to provide all of the executed financing agreements, as well as a DVD copy of the finished film, the final budget, full cast and crew list and other documents as required by Screen Australia.

The decision whether to grant a film final approval is made jointly with the competent authority/ies of the co-production partner/s.

Final approval must be obtained before the Producer Offset can be claimed.

6.3 Letter of preliminary compliance

As noted above, provisional approval cannot be given until finance is committed. However, Screen Australia appreciates that in order for finance to be committed, co-producers may need to be able to demonstrate to potential financiers that the project would qualify as an official co-production.

Therefore, at a point at which the co-producers are committed and there is a broad indication of:

- the budget or at least a budget 'topsheet',
- the proportion of the budget which will be expended by each co-producer,
- which creative roles will be filled by nationals of each country, and
- the proportion of finance that will be raised by each co-producer,

the Australian co-producer may seek a preliminary indication from Screen Australia that the project would qualify as an official co-production. This indication will take the form of a 'letter of preliminary compliance'.

This letter will be based solely on the statements of the Australian co-producer outlined in the application and any supporting materials.

The letter of preliminary compliance **will not bind** Screen Australia to any decision in relation to a provisional or final application and **will not entitle** the co-producers to any of the benefits accorded to an official co-production (such as eligibility for the Producer Offset).

A letter of preliminary compliance is an **optional process** and co-producers who have finance committed should apply for provisional approval rather than seeking a letter of preliminary compliance first.

A fee of A\$275 (GST inclusive) is payable when an application for a letter of preliminary compliance is made. For further information, see the relevant application form.

7. PRODUCER'S UNDERTAKING

Screen Australia is responsible for ensuring that approved official co-productions are made and completed within the terms of Screen Australia's approval.

Each Australian co-producer must execute a formal undertaking, the major points of which are:

- the co-producer must obtain Screen Australia's prior approval to any amendment or alteration to the approved casting, crewing, credits, locations, facilities, schedules and budgets and any other Australian element included in the producer's application and/or in Screen Australia's written terms of approval;
- the co-producer must obtain Screen Australia's approval of the full credits for the film, both front and end, prior to their design and shooting (rostrum, live action or computer).

If a co-producer fails to comply with the undertaking or if an unauthorised deviation occurs from the original terms of co-production approval, the following may occur:

- Screen Australia may revoke co-production approval for the project;
- the project may be ineligible for its final Producer Offset certificate.

The undertaking is attached to the provisional approval application form, available from www.screenaustralia.gov.au/coproduction.

8. PRODUCER OFFSET

Approved co-productions are eligible to access the Producer Offset under the *Income Tax Assessment Act 1997*, and are not required to satisfy the 'significant Australian content' test. A Fact Sheet explaining the interaction between the Producer Offset and official co-productions is available at www.screenaustralia.gov.au/coproduction.

Projects with provisional co-production approval can also apply for a provisional certificate for the Producer Offset to assist in raising finance. New application forms allow Australian co-producers to apply for both provisional co-production approval and provisional Producer Offset certification at the same time, should they wish to do so. This would incur the normal application fee charged for provisional Producer Offset certificates. (There is no charge for co-production applications by themselves.)

Co-production projects seeking to receive the Producer Offset after completion must obtain a final certificate for the Producer Offset. Again, new application forms allow Australian co-producers to apply for final co-production approval and final Producer Offset certification at the same time if they wish to do so. Please note that a final certificate for the Producer Offset cannot be issued until Screen Australia has received proof of final co-production approval from **all** relevant competent authorities.

Further, the Producer Offset has separate and distinct criteria to those for co-production approval, and co-producers should consult the Producer Offset website for further information: www.screenaustralia.gov.au/producer_offset.

9. PRODUCTION INVESTMENT FROM SCREEN AUSTRALIA

Official co-productions are eligible to apply for production investment from Screen Australia. However, Screen Australia's production investment funds are limited and applicants should be aware that investment decisions are competitive. In order to apply for production investment, the Australian co-producer must have received a letter of preliminary compliance or provisional approval.

Please see www.screenaustralia.gov.au/production for further information.

10. DEFINITIONS

‘Australian Qualifying Points’ (AQP) mean the creative ‘points’ attributable to Australian nationals or permanent residents providing a creative contribution to the making of a co-production. As a percentage of the total creative points the AQP must reach at least the minimum contribution level prescribed by the relevant co-production arrangement (typically 20% or 30%). That percentage must also be reasonably similar to the percentage financial contribution of the Australian co-producer.

‘Australian elements’ include:

- Australian cast, crew, facilities and materials, including per diems, travel and accommodation of all Australians whether incurred in Australia or not;
- a percentage of contingencies, of the cost of insurances and of a completion guarantee;
- legal services acquired by the Australian co-producer; and
- any non-party services acquired by the Australian co-producer.

‘competent authority’ means the authorities designated as such by the Australian Government (Screen Australia) and by the foreign government of each co-production country (listed in section 11 of these guidelines). The competent authority in each country administers that country’s co-production program.

‘co-producers’ means the producers from each co-production country.

‘co-producers’ agreement’ means the contract between co-producers which governs the making of a co-production film. Each co-production arrangement has specific requirements which must be addressed in the co-producers’ agreement.

‘co-production arrangement’ means a treaty or memorandum of understanding (MOU) between the governments of two or more countries for the co-production of films. An MOU may also be an arrangement between government agencies of two or more countries for that purpose.

‘co-production country’ means a country with which Australia has a co-production arrangement.

‘film’ means feature films, animation films, documentaries, telemovies and television series, produced on film, videotape, digital disc or computer hard drives. Certain co-production arrangements limit the formats to which they apply.

‘non-party country’ means a country that is unrelated to the co-production, ie is not a party to a co-production arrangement under which a co-production film is being made.

‘official co-production’ means a film approved as made under a co-production arrangement.

‘third co-producer’ means a co-producer of a three-way co-production (see below). In these guidelines ‘third co-producer’ is generally used to refer to a

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co-producer from a country that has a co-production arrangement with only one of the other co-production countries.¹

‘three-way co-production’ means a film produced jointly by an Australian co-producer, a co-producer from a co-production country and a third co-producer from a country that has a co-production arrangement with at least one of the co-production countries.

¹ For example, if a three-way co-production is between Australia, the UK and India, the Indian co-producer would be the third co-producer, as India does not have a co-production arrangement with Australia, but does have a co-production arrangement with the UK.

11. CONTACT DETAILS

11.1. Screen Australia:

Application forms for provisional approval, final approval and letters of preliminary compliance, as well as all co-production arrangements, can be accessed from Screen Australia's website at:
www.screenaustralia.gov.au/coproductions

Or by contacting:

Screen Australia

Producer Offset and Co-production Unit
Level 4, 150 William Street
Woolloomooloo NSW 2011
T: +61 2 8113 1042
F: +61 2 9357 3737
Toll Free: 1800 213 099

E: coproduction@screenaustralia.gov.au
www.screenaustralia.gov.au/coproduction

Producer Offset enquiries can be directed to:

E: produceroffsetenquiries@screenaustralia.gov.au
www.screenaustralia.gov.au/producer_offset

11.2. Industry unions and associations:

Approval as an official co-production does not necessarily indicate that the Australian industry unions and screen industry associations take the same position as Screen Australia in relation to the approval of the importation of cast and crew. It is strongly recommended that you contact the relevant union and/or associations about applicable policies, rates and conditions.

Australian Guild of Screen Composers

PO Box 42
Potts Point NSW 2011
T: +61 2 9557 4253
E: agsc@agsc.org.au

Australian Directors Guild

PO Box 211
Rozelle NSW 2039
T: +61 2 9555 7045
E: admin@adg.org.au

Media Entertainment & Arts Alliance

245 Chalmers Street
Redfern NSW 2016
T: 1300 656 512
E: federal@alliance.org.au

Australian Writers Guild

5 Blackfriars Street
Chippendale NSW 2008
T: 1300 552 228
E: admin@awg.com.au

Screen Producers Association of Australia (SPAA)

34 Fitzroy Street
Surry Hills NSW 2010
T: +61 2 9360 8988
E: spaa@spaa.org.au

11.3. Department of the Prime Minister and Cabinet:

Office for the Arts
PO Box 6500
Canberra ACT 2600
E: filmenquiries@pmc.gov.au
www.arts.gov.au/film-tv

11.4. Overseas competent authorities:

Canada:

Telefilm Canada
360 Rue St Jacques, Suite 500
Montreal Quebec H2Y 1P5
T: +1 514 283 6363
F: 514 282 8212
www.telefilm.gc.ca

France:

Centre National de la Cinématographie (CNC)
12, Rue de Lübeck, 75784 Paris Cedex 16
T: +33 1 44 34 34 40
F: +33 1 44 34 37 24
E: info@cnc.fr
www.cnc.fr

Singapore:

Media Development Authority
3 Fusionopolis Way, #16-22 Symbiosis
Singapore 138633
T: +65 63 773 800
F: +65 65 773 888
www.mda.gov.sg

China:

China Film Co-Production Corporation
2 Fuxingmenwai Ave
Beijing 100866
People's Republic of China
T: +86 10 8609 6963
F: +86 10 8609 6958
www.cfcc-film.cn/en

Dr Tong Gang- director general

Germany:

Federal Office of Economics and Export
Control
BAFA
Frankfurter Strasse 29-35
D 65760
Eschborn
T: +49 619 6908-0
F: +49 619 6908-800
E: Peter.Reuss@bafa.bund.de

UK:

BFI (British Film Institute)
The Certification Unit
21 Stephen Street
London W1T 1LN
T: + 44 20 7173 3134
www.bfi.org.uk/about/certification/coproduction/

Israel:

Israel Film Fund
12 Yehudith Boulevard, Tel Aviv 67016
T: +972 3 562 8180
F: +972 3 562 5992
E: info@filmfund.org.il
www.filmfund.org.il

New Zealand:

New Zealand Film Commission
L3, The Film Centre, 119 Ghuznee Street
Wellington 6011
T: +64 4 382 7680
F: +64 4 483 9719
www.nzfilm.com.nz

Italy:

Ministero per i Beni e le Attivita Culturali
Direzione Generale per il Cinema
Piazza Sanat Croce in Gerusalemme, 9/a
00185 Roma
E: dg-c@beniculturali.it
www.cinema.beniculturali.it

Ireland:

The Irish Film Board
Queensgate
23 Dock Road
Galway
Ireland
T: +353 91 561 398
F: +353 91 561 405
E: info@irishfilmboard.ie
www.irishfilmboard.ie

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South Africa:

National Film and Video Foundation

87 Central Street

Houghton

2198

Johannesburg

T: +27 11 483 0880

F: +27 11 483 0881

E: info@nfvf.co.za

dev.nfvf.co.za/filming-south-africa/co-production-treaties

Information about projects completed with each partner country is available at

www.screenaustralia.gov.au/coproduction.

UPDATE LOG

11 October 2010:

3.4(a) amended to read: Subject to the terms of the relevant co-production arrangement, a writer who is ~~a national of a non-party country~~ **not a national or permanent resident of one of the co-producing countries** can contribute to the screenplay, provided that the person is not a *credited writer* of the screenplay (as that term is understood by the Australian Writers' Guild or equivalent organisation).

15 April 2011:

1.3: changed email address for Department of the Prime Minister and Cabinet – Office for the Arts to filmenquiries@pmc.gov.au

27 April 2011:

11.3: changed email address for Department of the Prime Minister and Cabinet – Office for the Arts to filmenquiries@pmc.gov.au

11.4: changed UK competent authority to British Film Institute (BFI).

2 November 2011:

Amended Guidelines to reflect the entry into force of the Australian–South African Treaty.

Annex A: Removed as it had become overly complex.