



Australian Government

SCREEN  
AUSTRALIA

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# PRODUCER OFFSET: GUIDANCE ON SIGNIFICANT AUSTRALIAN CONTENT (SAC)

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## Guidance on Significant Australian Content (SAC)

To qualify for the Producer Offset, the applicant will have to satisfy Screen Australia that the film has a significant level of Australian content. The Significant Australian Content (SAC) test is set down in section 376-70 of the Act. Under that section, in determining whether a film has significant Australian content, Screen Australia must have regard to the following:

- The subject matter of the film
- The place where the film was made
- The nationalities and places of residence of the persons who took part in the making of the film (including producers, directors, authors, scriptwriters, composers, actors, editors, directors of photography, production designers and other film technicians)
- The details of production expenditure incurred in respect of the film, and
- Any other matters that Screen Australia considers to be relevant.

Official co-productions are an exception to this requirement. A film is considered to meet the SAC test if it is approved as an official co-production, that is, it has been made under an arrangement entered into between the Commonwealth or an authority of the Commonwealth and a foreign country or an authority of a foreign country, either a co-production treaty or a memorandum of understanding (MOU). For further information on Australia's co-production program, please visit [www.screenaustralia.gov.au/copros](http://www.screenaustralia.gov.au/copros).

If your film is an official co-production you must provide a signed copy of the agreement between the co-producers of the film and evidence from the Australian Commonwealth agency and from the relevant foreign country that the film is an official co-production.

### Meeting the SAC test

Whether a film satisfies the SAC test is a matter of judgment for Screen Australia. Detailed guidance on how Screen Australia will make this judgment is provided below.

More generally the following matters should be noted: -

- The elements of the SAC test are matters to be considered and should not be considered to be 'criteria' which must be met. Accordingly, Screen Australia will consider all relevant factors as part of a holistic test, applied on a case-by-case basis, to determine whether a film has significant Australian content. No single factor is determinative; rather, Screen Australia will consider and balance all relevant factors in coming to a decision
- It is a *significant* Australian content test and while there is not an assumption that films will not qualify, Screen Australia will administer the test with rigour

- The key difference between the Location Offset and the Producer Offset streams of the Australian Screen Production Incentive is the SAC test. As such, the SAC test represents the cultural imperative which a film must demonstrate in order to justify the increased contribution of the Australian Government from the Location Offset's 15% to the Producer Offset's 20% or 40%, and
- Given the above, a project should not expect to meet the SAC test merely because it is undertaking pre, production and post in Australia and crew and below-the-line cast are Australian nationals. Such a project would be expected to seek the Location Offset for Australian Government support.

## How Screen Australia interprets the 'matters to be taken into account'

### 1. The subject matter of the film

Screen Australia interprets 'subject matter of the film' as requiring it to determine if the 'look and feel of the film' is sufficiently Australian or the film has a significant creative connection with Australia. For example:

- Is the film 'about' Australia or Australians
- Does it reflect a cultural background that is particular to Australia or Australians
- Does it reveal some aspect of Australia's or Australians' cultural background or experience, or
- Did the project originate in Australia and/or was it developed by Australians?

Screen Australia anticipates that it would need to consider some or all of the following factors:

- Whether the film is based on an Australian story
- The extent to which the film is about Australian characters
- The extent to which the film is set in Australia
- Whether the core origination of the project took place in Australia or under Australian control, and
- The length and extent of association Australian citizens or residents have had in the film's development.
- Other relevant factors may be identified which are peculiar to an individual project.

In relation to the 'length and extent of association', Screen Australia would require the applicant to demonstrate a meaningful and substantial Australian involvement in the development of the 'subject matter of the film'. Generally Screen Australia would expect the applicant to demonstrate that the project is written by Australian citizens or residents. In demonstrating that a project is *written* by an Australian citizen or resident, the normal Australian film industry usage of the term is required (i.e. credits approved by the Australian Writers' Guild).

Films that have poor Australian subject matter will have difficulty meeting the SAC test. They will need to perform very strongly against all of the other matters to satisfy the SAC test.

## 2. The place where the film was made

Screen Australia interprets ‘the place where the film was made’ as requiring it to determine whether the film is to be produced in Australia to a significant extent. Screen Australia will take into account each phase of the production cycle separately (pre-production, production and post-production) in consideration of a film’s claim in relation to this matter.

Generally speaking, a film which undertakes most or all of its work in Australia will be considered to have a strong claim against this matter.

A film would have a weak claim in relation to this matter if the majority of principal photography is not undertaken in Australia. The higher the proportion of production activity in Australia, the stronger will be the claim against this matter. If a film is to be mostly shot offshore, the film will need to have strong claims in the other matters, particularly ‘the subject matter of the film’ to satisfy the SAC test.

## 3. The nationalities and places of residence of the persons who took part in the making of the film:

In the context of the SAC test, Screen Australia will consider a person to be Australian if she or he is an Australian citizen or an Australian permanent resident. However, for persons who are not Australian citizens or permanent residents, but are nonetheless resident in Australia, Screen Australia may take into account their residency in Australia. Applicants should outline residency claims on the application form.

The nationalities and place of residence of the producer, writer and director will be considered to be particularly important. The general rules crediting such roles used by the Australian film and television production industry and represented by the appropriate industry bodies (Screen Producers Association of Australia, Australian Writers’ Guild and Australian Directors Guild) will be used to verify claimed roles, if there is any doubt.

The nationality and place of residence of lead cast members is also considered to be very important and the proportion of Australian actors in lead roles is generally expected to be material. Screen Australia will seek the applicant’s views as to which roles are lead characters, but will exercise its own judgement, principally based on the screenplay provided.

- Please note that the consideration of the nationality and residency of cast in the context of an application for the Producer Offset is separate to the Australian Government’s Foreign Actors Certification Scheme (FACS). A planned project which has a provisional certificate for the Producer Offset will still need to meet the requirements of the FACS in order to bring in any foreign actors. Information on the FACS can be found at [http://www.arts.gov.au/film/film\\_foreign\\_actors\\_for\\_film\\_or\\_television](http://www.arts.gov.au/film/film_foreign_actors_for_film_or_television). Screen Australia encourages producers to engage with the FACS process early if they intend to bring in foreign actors.

Screen Australia will also consider the nationality and place of residence of key creative heads of department, such as director of photography, production designer, editor, costume designer and composer.

Screen Australia will also consider the proportion of other cast, crew and service providers (such as post production houses) that are Australian residents and citizens.

The higher the proportionate number of Australian citizens or residents involved in the project, the stronger the applicant's claim against this matter, particularly considering the proportion of Australian citizens and residents filling the roles of producer(s), writer(s) and director(s).

If the film does not perform strongly against this matter, the film will need to have a strong claim in the other matters, in particular 'the subject matter of the film', to satisfy the SAC test.

#### **4. The details of the production expenditure incurred in respect of the film**

Screen Australia interprets this matter as requiring it to determine the extent to which the film's production expenditure contributes to the maintenance and development of the Australian film industry. The following factors are taken into account:

- The extent to which expenditure is made on Australian citizens or residents (expenditure on Australians working overseas is relevant, but expenditure on non-Australians working within Australia is not considered relevant) and
- The extent to which expenditure is incurred within Australia (i.e. on goods and services provided in Australia).

A film would have a weak claim against this matter if less than half of the production expenditure is spent in Australia. The greater the Australian production spend, the stronger the applicants claim against this matter. If the film does not perform strongly against this matter, the film will need to have a strong claim against the other matters, in particular 'the subject matter of the film' to satisfy the SAC test.

#### **5. Any other matters that Screen Australia considers relevant.**

Screen Australia must take into account any matter it considers relevant in the circumstances of the project. For example, Screen Australia may take into account:

- Policy issues associated with the Producer Offset, such as the impact of the project on creating a sustainable Australian film and television production industry, or whether it supports the development and employment of Australian key creatives to make Australian films
- The extent to which copyright ownership resides with Australians, in particular whether this is commensurate with the proportion of the budget provided by Australians
- The extent to which creative control rests with Australian citizens or residents, or
- The extent to which there is recoupment and profit participations to Australian nationals or residents and the extent to which that is commensurate with ownership.

However, Screen Australia will also consider any other factors it considers relevant to a specific film project on a case by case basis. Applicants may

wish to draw Screen Australia’s attention to any matters which increase the project’s claim against the SAC test.

## Administration of the SAC test

Each application will be managed through the determination process by officers of Screen Australia’s Producer Offset Unit and is considered by Screen Australia’s Producer Offset and Co-production Committee, which meets weekly and is made up of senior officers of the Agency.

Projects which quite clearly meet the SAC test and have an offset value of less than \$15 million may be certified by the Chief Executive Officer of Screen Australia under delegated authority of the Board, but only when acting on the advice of the Committee.

However, the Board of Screen Australia is ultimately responsible for the certification of projects and projects which claim an offset of \$15 million or more, or do not clearly meet the SAC test, will be referred to the Board for decision.

Screen Australia emphasises that the majority of applications received clearly meet the SAC test and are processed promptly and efficiently. However, projects which have a lesser claim against the SAC test may take longer to assess and the applicant may be asked for additional information demonstrating the film’s claim. If a film has a number of non-Australian elements, applicants are encouraged to use initiative in providing Screen Australia with any additional information that strengthens its claim against the SAC test.

Such information may include:

- A development timeline demonstrating the length of association of Australians with the project
- Agreements with key creatives which define their length of association and level of creative control and input
- Copies of earlier screenplays which demonstrate the length of association of Australians in the development of the project
- Location survey photos that identify the impact of the Australian landscape on the film, and
- Anything else that the applicant considers relevant.

In the case of applications for provisional certificates, where a film project is considered to have insufficient Australian content to pass the SAC test, Screen Australia will discuss the project with the applicant who will have the opportunity to revise the film project and resubmit their application.

When an application for a provisional or final certificate is rejected by Screen Australia, Screen Australia will notify the applicant in writing of the reason for the rejection.

If your project has a number of non-Australian elements, you should anticipate that Screen Australia may need additional information in order to assess the project’s claim against the SAC test. You should therefore include any supporting information you can provide with your application.