

DEPARTMENT OF THE PRIME MINISTER AND CABINET
OFFICE FOR THE ARTS

etary
Mr Eccles
Ms Bean
Ms Bassar

To: Minister for the Arts (for decision)

MEDIA, ENTERTAINMENT AND ARTS ALLIANCE: s22
s22 AND FOREIGN ACTOR CERTIFICATION SCHEME

MO
Mr Clifton
Ms O'Neil

Timing: 23 December 2010

File:
2010/15983,
2010/07023

Recommendations - that you:

1. s22

~~Agree~~ / Disagree

2. Agree to the recommendations in Attachment C relating to the Foreign Actor Certification Scheme.

Agree / ~~Disagree~~

Simon Crean

Date:

9/3/11

Purpose: To seek your agreement to recommendations regarding the s22
s22 and the Foreign Actor Certification Scheme (FACS), both of which are key policy interests for the Media, Entertainment and Arts Alliance (MEAA).

Key Points:

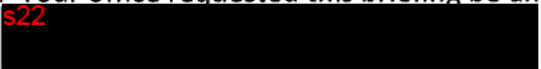
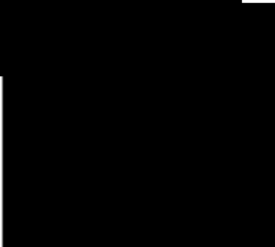
s22

s22



s22

Foreign Actor Certification Scheme

1. A detailed briefing on the Foreign Actor Certification Scheme Guidelines Review, including recommendations, was provided to you on 26 November 2010 **(B10/1427, Attachment C)**. Your office requested this briefing be amended and combined with briefing on  s22 
2. The objective of FACS is to provide opportunities for Australian actors to perform in productions made in Australia so that Australian voices are heard on screen. FACS


prescribes more rigorous eligibility requirements for foreign actors working on a government subsidised production than a non-government subsidised production, as per the requirements of the Migration Regulations 1994 (the Regulations).

- a. As required under the Regulations, MEAA is consulted by sponsors on each FACS application and advises OFTA on whether or not it objects to the application.


s22
s22
s22
In 2009, with the approval of the previous Arts Minister, OFTA began a review of the FACS Guidelines, which have not been substantively updated since the early 1990s. The review to date has involved key stakeholders – MEAA, the Screen Producers Association of Australia, DIAC and Screen Australia. OFTA has prepared revised draft Guidelines for further discussion with stakeholders, including MEAA.

- a. We will brief you on the outcomes of these consultations and submit a final draft of the FACS Guidelines for your consideration by mid-2011.

5. Detailed briefing, including recommendations, is provided at **Attachment C**. *where the up to 7*


Lynn Bean
First Assistant Secretary
Arts Division
9 December 2010

Policy Officer: Paul McInnes
Phone no: 6275 9501 / s47F


Sally Basser
First Assistant Secretary
Culture Division
9 December 2010

Policy Officer: Stephen Arnott
Phone no: 6275 9557 / s47F

EMPLOYMENT

THIS PAGE: CENSUS BY OCCUPATION: BY INDUSTRY, NUMBER AND SEX

◀ PREVIOUS | NEXT ▶

Occupations by industry, number and sex, 2006

Next update December 2011

Selected audiovisual industries

Film and video production and post-production services

Film and video distribution

Film exhibition

Television broadcasting

Video hire

Selected audiovisual industries, top 50 by number

According to the Census of Population and Housing conducted in August 2006, there were 45,088 people employed in the selected audiovisual industries¹. Of these, 77 per cent worked in the top 50 occupations, ranked by number, as listed below. The largest proportion (17 per cent) were sales assistants, with the majority working in video hire. Most sales assistants were women - although, at 65 per cent, this was slightly less than the proportion of women in other industries (70 per cent).

	Selected audiovisual industries ¹			All other industries ²		
	Men	Women	Total	Men	Women	Total
Sales assistant (general)	2,634	4,832	7,466	128,850	306,378	435,428
Media producer (excluding video)	1,562	1,317	2,879	1,632	1,085	2,717
Retail manager (general)	1,131	1,183	2,314	97,023	79,989	177,012
Ticket seller	554	963	1,517	3,612	7,617	11,229
Film and video editor	1,044	313	1,357	318	113	431
Ticket collector or usher	673	556	1,229	865	782	1,647
Rental salesperson	483	725	1,208	1,668	1,707	3,375
Camera operator (film, television or video)	973	54	1,027	310	50	360
Television journalist	490	492	982	35	41	76
Director (film, television, radio or stage)	742	233	975	525	214	739
Cinema or theatre manager	434	440	874	173	178	351
Motion picture projectionist	744	127	871	28	3	31
Production assistant (film, television, radio or stage)	208	564	772	132	152	284
Sound technician	477	51	528	2,981	234	3,215
Sales workers, nfd	175	352	527	1,167	997	2,164
Sales and marketing manager	251	254	505	53,954	24,731	78,685
Sales representative (business services)	226	237	463	5,374	4,960	10,334
Program director (television or radio)	225	223	448	350	225	575
General clerk	89	341	430	31,055	174,805	205,860
Video producer	341	81	422	222	76	298
Graphic designer	225	173	398	11,094	10,846	21,940
Performing arts technicians, nec	291	101	392	340	99	439

Accountant (general)	138	235	373	60,244	52,175	112,419
Corporate general manager	253	59	352	27,351	8,489	35,840
Media professionals, nfd	212	138	350	485	692	1,177
Inquiry clerk	110	207	317	15,679	35,159	50,838
Telecommunications technician	280	23	303	12,461	466	12,927
Personal assistant	6	288	294	831	42,905	43,736
Accounts clerk	45	243	288	11,377	63,499	79,876
Receptionist (general)	7	262	269	2,561	77,121	79,682
Cabler (data and telecommunications)	258	6	264	1,897	56	1,953
Actor	153	107	260	633	431	1,064
Television presenter	142	116	258	51	43	94
Journalists and other writers, nfd	106	152	258	517	641	1,158
Electronic engineering technician	248	10	258	4,308	391	4,699
Illustrator	218	27	245	915	342	1,257
Office manager	30	207	237	12,415	79,622	92,037
Chief executive or managing director	192	42	234	38,642	7,553	46,195
Technical director	210	23	233	148	10	158
Film, television, radio and stage directors, nec	160	61	221	138	98	236
Television equipment operator	147	72	219	38	13	51
Broadcast transmitter operator	152	63	215	48	16	64
Electronic equipment trades worker	196	11	207	20,053	972	21,025
Checkout operator	47	158	205	19,477	66,531	86,008
Radio journalist	87	116	203	221	248	469
Public relations professional	62	141	203	4,070	9,416	13,486
Managers, nfd	139	61	200	34,173	14,989	49,162
Finance manager	117	79	196	23,512	15,198	38,710
Director of photography	185	11	196	39	8	47
Sales representatives, nec	86	101	187	27,503	10,911	38,414
Total employed in these occupations	17,958	16,671	34,629	661,495	1,108,477	1,769,972
Total employed in all occupations	23,409	21,679	45,088	4,887,719	4,171,363	9,059,084

Source: Compiled by Screen Australia using unpublished data from the Australian Bureau of Statistics (ABS), Census of Population and Housing, 2006.

Notes:

Adjustments have been made to figures by the ABS to avoid the release of confidential data.

nec - not elsewhere classified.

nfd - not further defined.

See industry and occupation definitions for classifications and definitions.

1. 'Selected audiovisual industries' includes film and video production and post-production services, film and video distribution, film exhibition, television broadcasting, video hire and not further defined audiovisual categories.

2. Includes all other Australian and New Zealand Standard Industrial Classification (ANZSIC) industries.

ABOUT THE DATA

Film and video production and post-production services, top 10 by number

According to the Census of Population and Housing conducted in August 2006, there were 8,261 people employed in film and video production and post-production services. Of these, 56 per cent worked in the top ten occupations, when ranked by number. In the production sector, the largest proportion (19 per cent) worked as media producers, while film and video editors represented the largest share (15 per cent) in the post-production sector.

One in five media producers worked primarily in the production sector; 54 per cent were men - a similar proportion to media producers in other industries (57 per cent). Slightly fewer than one in ten film and video editors worked primarily in the post-production sector; 75 per cent were men - again, similar to the proportion of male film and video editors in other industries (76 per cent).

	Film and video production and post-production services			All other industries		
	Men	Women	Total	Men	Women	Total
Production						
Media producer (excluding video)	766	657	1,423	3,194	2,402	5,596
Director (film, television, radio or stage)	435	120	555	1,267	447	1,714
Film and video editor	427	112	539	1,362	426	1,788
Video producer	300	74	374	563	157	720
Production assistant (film, television, radio or stage)	105	236	341	340	716	1,056
Camera operator (film, television or video)	314	22	336	1,283	104	1,387
Performing arts technicians, nec	146	53	199	631	200	831
Sound technician	147	14	161	3,458	285	3,743
Director of photography	130	11	141	224	19	243
Graphic designer	78	43	121	11,319	11,019	22,338
Post-production						
Film and video editor	102	34	136	1,362	426	1,788
Illustrator	80	12	92	1,133	369	1,502
Machine shorthand reporter	28	45	73	162	1,158	1,320
Media producer (excluding video)	15	23	38	3,194	2,402	5,596
Graphic designer	21	5	26	11,319	11,019	22,338
Performing arts technicians, nec	17	8	25	631	200	831
Sound technician	16	3	19	3,458	285	3,743
Director (film, television, radio or stage)	17	0	17	1,267	447	1,714
Multimedia designer	11	5	16	1,073	629	1,707
Chief executive or managing director	12	3	15	38,834	7,595	46,429

Source: Compiled by Screen Australia using unpublished data from the Australian Bureau of Statistics (ABS), Census of Population and Housing, 2006.

Notes:

Adjustments have been made to figures by the ABS to avoid the release of confidential data.

nec - not elsewhere classified.

See Industry and occupation definitions for classifications and definitions.

ABOUT THE DATA

Film and video distribution, top 10 by number

According to the Census of Population and Housing conducted in August 2006, there were 871 people employed in the film and video distribution industry. Of these, 41 per cent worked in the top ten occupations, when ranked by number. The largest proportion (8 per cent) were sales and marketing managers, 56 per cent of whom were women. This contrasts with the overall figure for other industries where men make up the majority (53 per cent) of sales and marketing managers.

	Film and video distribution			All other industries		
	Men	Women	Total	Men	Women	Total
Sales and marketing manager	31	40	71	54,205	24,985	79,190
Storeperson	23	25	48	81,395	15,491	96,846
Sales assistant (general)	23	20	43	131,484	311,410	442,894
Sales representatives, nec	20	19	39	27,589	11,012	38,601
Retail manager (general)	22	11	33	98,154	81,172	179,326
Personal assistant	0	29	29	837	43,193	44,030
Chief executive or managing director	17	7	24	38,834	7,595	46,429
Sales demonstrator	0	24	24	1,274	8,788	10,062

Accountant (general)	9	14	23	60,382	52,410	112,792
Marketing specialist	7	16	23	13,039	16,694	29,733

Source: Compiled by Screen Australia using unpublished data from the Australian Bureau of Statistics (ABS), Census of Population and Housing, 2006.

Notes:

Adjustments have been made to figures by the ABS to avoid the release of confidential data.

rec - not elsewhere classified.

See industry and occupation definitions for classifications and definitions.

ABOUT THE DATA

Film exhibition, top 10 by number

According to the Census of Population and Housing conducted in August 2006, there were 8,900 people employed in the film exhibition industry was 8,900. Of these, 73 per cent worked in the top ten occupations, ranked by number. The largest proportion (17 per cent) were ticket sellers, 63 per cent of whom were women. This is slightly less than the proportion of women ticket sellers in other industries (67 per cent).

	Film exhibition			All other industries		
	Men	Women	Total	Men	Women	Total
Ticket seller	551	956	1,507	4,166	8,580	12,746
Ticket collector or usher	673	956	1,229	1,538	1,338	2,876
Sales assistant (general)	311	803	1,114	131,484	311,410	442,894
Cinema or theatre manager	430	440	870	607	618	1,225
Motion picture projectionist	741	127	868	772	130	902
Sales workers, nfd	166	341	507	1,342	1,349	2,691
Checkout operator	27	104	131	19,524	66,989	86,213
Waiter	42	76	118	18,081	68,051	86,132
Commercial cleaner	55	57	112	42,037	70,571	112,608
Bar attendant	37	43	80	20,512	26,838	47,350

Source: Compiled by Screen Australia using unpublished data from the Australian Bureau of Statistics (ABS), Census of Population and Housing, 2006.

Notes:

Adjustments have been made to figures by the ABS to avoid the release of confidential data.

nfd - not further defined.

See industry and occupation definitions for classifications and definitions.

ABOUT THE DATA

Television broadcasting, top 10 by number

According to the Census of Population and Housing conducted in August 2006, there were 15,575 people employed in the television broadcasting industry. Of these, 40 per cent worked in the top ten occupations, ranked by number. The largest proportion in the free-to-air sector (10 per cent) were media producers while inquiry clerks represented the largest share in the subscription sector (7 per cent).

Around one in five media producers worked primarily in the free-to-air sector; 54 per cent were men - a similar proportion to media producers in other industries (57 per cent). In the subscription sector, 66 per cent of inquiry clerks were women - again, similar to the proportion of women inquiry clerks in other industries (69 per cent).

	Television broadcasting			All other industries		
	Men	Women	Total	Men	Women	Total
Free-to-air						
Media producer (excluding video)	673	563	1,236	3,194	2,402	5,596
Television journalist	462	465	927	525	533	1,058
Camera operator (film, television or video)	596	29	625	1,283	104	1,387
Film and video editor	443	147	590	1,362	426	1,788
Sales representative (business services)	207	215	422	5,600	5,197	10,797
Program director (television or radio)	193	194	387	575	448	1,023

Production assistant (film, television, radio or stage)	78	281	359	340	716	1,056
Sound technician	246	28	274	3,458	285	3,743
Journalists and other writers, nfd	106	149	255	623	793	1,416
Director (film, television, radio or stage)	193	57	250	1,267	447	1,714
Subscription						
Inquiry clerk	73	139	212	15,789	35,366	51,155
Call or contact centre operator	30	87	117	5,618	12,766	18,384
Media producer (excluding video)	74	47	121	3,194	2,402	5,596
General clerk	7	35	42	31,144	175,146	206,290
Sales and marketing manager	45	35	80	54,205	24,985	79,190
Sales representative (personal and household goods)	51	33	84	20,056	11,222	31,278
Accounts clerk	8	30	38	11,422	68,742	80,164
Sales assistant (general)	44	29	73	131,484	311,410	442,894
Marketing specialist	11	26	37	13,039	16,694	29,733
Accountant (general)	9	24	33	60,382	52,410	112,792

Source: Compiled by Screen Australia using unpublished data from the Australian Bureau of Statistics (ABS), Census of Population and Housing, 2006.

Notes:

Adjustments have been made to figures by the ABS to avoid the release of confidential data.
nfd - not further defined.

See industry and occupation definitions for classifications and definitions.

ABOUT THE DATA

Video hire, top 10 by number

According to the Census of Population and Housing conducted in August 2006, there were 10,975 people employed in the video hire industry. Of these, 91 per cent worked in the top ten occupations, ranked by number. The largest proportion (56 per cent) were sales assistants; 64 per cent of whom were women. This is slightly less than the proportion of women sales assistants in other industries (70 per cent).

	Video rental			All other industries		
	Men	Women	Total	Men	Women	Total
Sales assistant (general)	2,231	3,932	6,163	131,484	311,410	442,894
Retail manager (general)	1,049	1,126	2,175	98,151	81,172	179,326
Retail salesperson	474	709	1,183	2,151	2,432	4,583
Shelf filler	36	53	89	28,369	22,737	51,106
Checkout operator	20	51	71	19,524	66,689	86,213
Sales assistants and salespersons, nfd	25	37	62	9,314	13,188	22,502
Storeperson	26	34	60	81,355	15,491	96,846
General clerk	11	45	56	31,144	175,146	206,290
Office cashier	14	37	51	1,660	7,739	9,399
Retail supervisor	17	32	49	9,938	11,926	21,864

Source: Compiled by Screen Australia using unpublished data from the Australian Bureau of Statistics (ABS), Census of Population and Housing, 2006.

Notes:

Adjustments have been made to figures by the ABS to avoid the release of confidential data.
nfd - not further defined.

See industry and occupation definitions for classifications and definitions.

ABOUT THE DATA

[EndTabSection]

EMPLOYMENT

THIS PAGE: AUDIOVISUAL INDUSTRIES: NUMBER WORKING IN AUDIOVISUAL INDUSTRIES

[← PREVIOUS](#) | [NEXT →](#)

Number of people working in audiovisual industries, 1993/94–2007

Overview

Census, 1971–2006

Service Industry Surveys, 1993/94–2006/07

Work in Selected Culture and Leisure Activities Survey, 1997–2007

Overview

The Australian Bureau of Statistics provides three main sources of data on the number of people working in the audiovisual industries: the Census of Population and Housing (Census), Service Industry Surveys (SIS) and Work in Selected Culture and Leisure Activities Survey (WSCLAS), which is a supplement to the monthly Labour Force Survey (LFS).

Each survey differs in scope, is compiled over different reporting periods and uses a variety of data collection methods. The SIS are based on a sample of companies who report the number of workers - full-time, part-time and casual - employed at the end of the financial year. The Census asks individuals to report their main source of income in the week prior to Census night. The WSCLAS also surveys individuals but asks respondents to indicate if they have received any form of payment from involvement with film, video, television and interactive content industries over a 12-month period, see [About the data](#).

It is important to note that the film and video production industry in particular uses a high proportion of casual/temporary employees and freelancers (who may be providing their services as either an individual or as company). The number actually employed in the production industry at the time of any survey will vary according to the level of production activity at the time.

ABOUT THE DATA

Census, 1971–2006

Next update December 2011

According to the Census of Population and Housing conducted in August 2006, there were 45,088 people employed in the audiovisual sector across the selected industry categories.

This is 11 per cent more than 1996. However, it is down 7 per cent on the previous Census in 2001. All audiovisual industry categories recorded a fall, except for film and video production and post-production services which rose by 7 per cent.

Television broadcasting continues to be the largest employer, accounting for around 35 per cent of the national audiovisual workforce.

	Number employed								Change
	1971	1976	1981	1986	1991	1996	2001	2006	01 to 06
Film and video production and post-production services	1,510	1,763	3,096	4,758	5,740	7,760	7,702	8,261	7%
Production								7,362	-
Post-production								899	-
Film and video distribution	807	912	744	703	563	1,709	1,054	871	-17%
Film exhibition	4,751	4,659	4,520	3,189	3,367	5,048	10,079	8,900	-12%
Television broadcasting	5,295	8,737	10,702	11,944	9,270	14,552	17,388	15,575	-10%
Free-to-air								12,648	-
Subscription								2,927	-
Video hire	-	-	-	-	-	9,745	10,312	10,975	2%
Undefined	-	-	-	-	-	1,374	1,262	506	-60%

All selected audiovisual industries 40,688 48,297 **45,088** -7%

Source: Compiled by Screen Australia using unpublished data from the Australian Bureau of Statistics (ABS), Censuses of Population and Housing, 1971-2006.

Notes:

Figures may not total exactly due to adjustments made by the ABS to avoid the release of confidential data. 1995 was the first year that video hire was available as a separate industry classification.

Industry definitions used by the ABS have changed over the years. See *Industry and occupation definitions for classifications and definitions*.

ABOUT THE DATA

Service Industry Surveys, 1993/94-2006/07

Next update to be advised

For 2006/07, the Australian Bureau of Statistics published data from surveys of businesses in film and video production and post-production services, television services and digital game development services.

The figures show a decrease in the number employed in film and video production and post-production, but an increase in employment for TV services and public radio.

The ABS notes that employment figures in the production industry fluctuate depending on what productions are underway at the time of the survey as companies tend to employ more people while actively engaged in production, returning to a smaller 'core' staff once it is completed (as at June 2007, 48 per cent of production employees were classed as casual or temporary, compared to 16 per cent of post-production employees). For this reason, labour cost data from the SIS may be a more realistic indicator of general employment trends for the production and post-production industry (it includes the total wages and salaries paid over the financial year); this indicator increased by 32 per cent between 2003 and 2007. Another possible labour indicator from the SIS - one that would take into account freelancers who provided their services as companies rather than as individuals - is payments to other businesses/contractors for production services, listed in expenditure; this increased by 58 per cent between 2003 and 2007.

The digital games development services industry was surveyed for the first time in 2006/07. The ABS reported 45 Australian digital game development businesses employing 1,431 people. The majority were permanent full-time employees (92.6 per cent), with men accounting for 89.2 per cent of the total.

For more employment-related SIS data, see Related links by industry on the Employment index.

	Number employed					Change 03 to 07
	June 1994	June 1997	June 2000	June 2003	June 2007	
Film and video production and post-production services ¹	5,998	9,591	15,195	16,360	13,844	-75%
Production	-	-	-	-	10,873	-
Post-production	-	-	-	-	2,971	-
Film and video distribution ²	981	1,341	1,426	-	-	-
Film exhibition ³	5,729	7,739	9,282	-	-	-
Television services (public and private) and public radio ⁴	14,708	14,595	16,484	14,977	16,134	8%
Video hire ⁵	-	-	11,034	-	-	-
Digital game development ⁶	-	-	-	-	1,431	-

Source: Compiled by Screen Australia from Australian Bureau of Statistics (ABS); *Film and Video Production and Distribution*, 1993/94 (cat. no. 8679.0); *Film and Video Production and Distribution*, 1996/97 (cat. no. 8679.0); *Film and Video Production and Distribution*, 1999/00 (cat. no. 8679.0); *Radio and Television Services*, 1993/94 (cat. no. 8680.0); *Radio and Television Services*, 1996/97 (cat. no. 8680.0); *Television Services*, 1999/00 (cat. no. 8359.0); *Motion Picture Exhibition*, 1993/94 (cat. no. 8654.0); *Motion Picture Exhibition*, 1996/97 (cat. no. 8654.0); *Motion Picture Exhibition*, 1999/00 (cat. no. 8654.0); *Video Hire Industry*, 1999/00 (cat. no. 8562.0); *Television, Film and Video Production*, 2002/03 (cat. no. 8679.0); *Television, Film and Video Production and Post-production Services*, 2006/07 (cat. no. 8679.0); *Digital Game Development Services Australia*, 2006/07 (cat. no. 8515.0); and Australian Broadcasting Commission (ABC) and Special Broadcasting Service (SBS) annual reports.

Notes:

Industry definitions used by the ABS have changed over the years: see *Industry and occupation definitions for classifications and definitions*.

1. Breakout data on production and post-production was available for the first time in 2006/07.

2. Film and video distribution not surveyed after 1999/00.

3. Film exhibition not surveyed after 1999/00.

4. Separate data for the radio and television activities of public broadcasters is not available for all years.

5. Video hire only surveyed in 1999/00.

6. Digital game development first surveyed in 2006/07.

ABOUT THE DATA

Work in Selected Culture and Leisure Activities Survey, 1997–2007

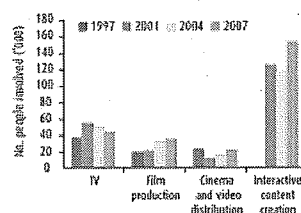
Next update to be advised

During the 12 months to April 2007, an estimated 3.5 million people aged 15 years and over were involved in some form of paid or unpaid work relating to the activities covered in the Work in Selected Culture and Leisure Activities Survey, which ranged from art and craft to writing and zoos. Of these, 540,600 people participated in what could be defined as audiovisual and interactive media activities (listed in the table below), with the highest proportion (47 per cent) involved in designing websites, followed by film production (19 per cent) and television (14 per cent). Of all categories, people working in television were more likely to be paid; 56 per cent of them received some payment in 2007.

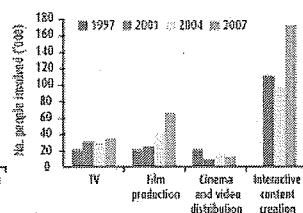
More people were involved in audiovisual and interactive media activities in 2007 than in 2004, with the strongest growth recorded in interactive content creation (up 54 per cent) and film production (up 40 per cent). Paid work was up by 45 per cent in cinema and video distribution, 29 per cent in interactive content creation, and 8 per cent in film production, but down by 10 per cent in television.

Since 2001, the total number of people involved in audiovisual and interactive media activities has increased by 42 per cent, and those in paid work by 19 per cent.

SOME PAID INVOLVEMENT



UNPAID INVOLVEMENT ONLY



	Some paid involvement ¹ ('000)				Unpaid involvement only ('000)				Total people with involvement ('000)			
	1997	2001	2004	2007	1997	2001	2004	2007	1997	2001	2004	2007
TV	36.4	54.0	48.4	43.4	20.4	29.6	27.5	33.6	56.7	83.6	75.9	77.4
Film production	18.7	20.4	32.1	34.6	20.1	24.0	40.3	64.9	38.8	44.4	72.4	101.0
Cinema and video distribution	22.6	11.4	14.4	20.9	20.1	8.7	13.6	11.7	42.7	20.1	28.1	32.5
Interactive content creation ²	-	124.5	117.8	192.2	-	109.3	94.5	170.1	-	233.8	214.7	329.7
Designing websites	-	-	-	112.4	-	-	-	136.2	-	-	-	254.3
Designing computer games and other interactive software	-	-	-	39.8	-	-	-	33.9	-	-	-	75.4
Total	77.7	210.3	212.7	251.1	60.6	171.6	175.9	280.3	138.2	381.9	391.1	540.6

Source: Compiled by Screen Australia from Australian Bureau of Statistics (ABS), *Work in Selected Culture/Leisure Activities* (cat. no. 6281.0), 1997, 2001, 2004, 2007.

Notes:

1. Includes all people who received financial or in-kind payment for their involvement, regardless of whether or not they also had some unpaid involvement.

2. In 2001 and 2004 interactive content creation included designing websites and creating programs that contained film, sound and animated components for use on computers, electronic games and touch screens. In 2007 it is the combined total of separate activities: designing websites and designing computer games and other interactive software. Interactive media was not included in the 1997 survey.

ABOUT THE DATA

PRODUCTION INDUSTRY BUSINESSES

THIS PAGE: PRODUCTION SERVICES: BUSINESS CHARACTERISTICS

◀ PREVIOUS | NEXT ▶

Number and size of businesses in the film and video production and post-production services industry, 1993/94, 1996/97, 1999/00, 2002/03 and 2006/07

Next update to be advised

2006/07 | 2002/03 | 1999/00 | 1996/97 | 1993/94

According to the Australian Bureau of Statistics Service Industry Survey of the Australian film and video production and post-production services industry, there were 2,492 businesses in the industry at the end of June 2007 - almost 6 per cent less than 2003, when there were 2,638 businesses. This includes businesses that were mainly engaged in film, television program, television commercials and video production, as well as those mainly engaged in providing post, digital and visual effects (PDV) services.

Businesses employing more than 100 people halved, from 36 in June 2003 to 18 in June 2007, yet still accounted for 39 per cent of employment (5,400 people) and 31.3 per cent of industry income (\$635.2 million).

Shifts in the size of businesses may be due, in part, to the projects underway during the surveyed period (in this case, the last pay period of June), as companies tend to employ more people while they are actively engaged with a production, returning to a smaller 'core' staff once completed. See Employment per quarter.

2006/07

Employment size	Businesses		Total employment		Total income	
	No.	%	No.	%	\$m	%
0-4 persons	2,120	85.1%	3,533	25.5%	654.3	32.3%
5-9 persons	*169	6.8%	*1,099	7.9%	*243.6	12.0%
10-19 persons	*126	5.0%	*1,578	11.4%	*236.5	11.7%
20-49 persons	*45	1.8%	*1,233	8.9%	*152.4	7.5%
50-99 persons	14	0.6%	1,002	7.2%	106.2	5.2%
100 persons or more	18	0.7%	5,400	39.0%	635.2	31.3%
Total	2,492	100%	13,844	100%	2,028.1	100%

Source: Australian Bureau of Statistics (ABS), *Television, Film and Video Production and Post-production Services, 2006/07* (cat. no. 8679.0).

Notes:

Includes all employing and significant non-employed businesses mainly engaged in film and video production and post-production services. Does not include television broadcasters or subscription television channel providers.

* Estimate has a relative standard error of 10-25 per cent and should be used with caution.



2002/03

Employment size	Businesses		Total employment		Total income	
	No.	%	No.	%	\$m	%
0-4 persons	1,836	64.5%	3,025	18.4%	434.9	27.2%
5-9 persons	*150	6.9%	*963	5.9%	*136.2	9.8%
10-19 persons	*84	3.9%	*1,131	6.9%	*118.4	7.4%
20-49 persons	*50	2.3%	*1,506	9.2%	*211.3	13.2%
50-99 persons	*17	0.8%	*1,208	7.4%	*129.7	8.1%
100 persons or more	*36	1.6%	*8,595	52.3%	*546.1	34.2%

Total	2,174	100%	16,427	100%	1,596.6	100%
Revised total ¹	r2,633		r16,360		r1,658.2	

Source: Australian Bureau of Statistics (ABS), *Television, Film and Video Production, 2002/03* (cat. no. 8679.0) and *Television, Film and Video Production and Post-production Services, 2006/07* (cat. no. 8679.0).

Notes:

Includes employing businesses mainly engaged in film and video production industry and post-production services. Does not include television broadcasters or subscription television channel providers. Significant non-employing businesses are included in revised totals only.

¹ Estimate has a relative standard error of 10-25 per cent and should be used with caution.

² Estimate has a relative standard error of 25-50 per cent and should be used with caution.

r Revised estimate.

1. With the release of 2006/07 data, the ABS issued revised top-line figures for 2002/03: see About the data.



1999/00

Employment size	Businesses		Total employment		Total income	
	No.	%	No.	%	\$m	%
0-4 persons	1,609	81.5%	2,645	17.5%	433.0	29.4%
5-9 persons	177	9.0%	1,140	7.5%	104.9	7.1%
10-19 persons	77	3.9%	1,063	7.0%	237.0	16.1%
20-49 persons	68	3.4%	1,901	12.5%	175.8	11.9%
50-99 persons	19	1.0%	1,235	8.1%	124.5	8.4%
100 persons or more	25	1.3%	7,202	47.4%	398.6	27.0%
Total	1,975	100%	15,195	100%	1,473.8	100%

Source: Australian Bureau of Statistics (ABS), *Film and Video Production and Distribution, 1999/00* (cat. no. 8679.0).

Notes:

Includes employing businesses mainly engaged in film and video production and post-production services. Does not include television broadcasters, subscription television channel providers or non-employing businesses.



1996/97

Employment size	Businesses		Total employment		Total income	
	No.	%	No.	%	\$m	%
0-4 persons	1,668	83.3%	2,679	28.4%	395.5	35.0%
5-9 persons	159	7.9%	1,028	10.9%	191.4	17.0%
10-19 persons	95	4.7%	1,282	13.6%	160.8	14.2%
20-49 persons	58	2.9%	1,762	18.7%	233.1	20.7%
50-99 persons	16	0.8%	1,030	10.9%	59.1	5.2%
100 persons or more	7	0.3%	1,655	17.5%	86.6	7.9%
Total	2,003	100%	9,438	100%	1,128.5	100%
Revised total ¹	r2,004		r9,591		r1,184.5	

Source: Australian Bureau of Statistics (ABS), *Film and Video Production and Distribution, 1996/97* and *Film and Video Production and Distribution, 1999/00* (cat. no. 8679.0).

Notes:

Includes employing businesses mainly engaged in film and video production and post-production services. Does not include television broadcasters, subscription television channel providers or non-employing businesses.

r Revised estimate.

1. With the release of 1999/00 data, the ABS issued revised top-line figures for 1996/97 to account for a subsequent change of scope.



1993/94

Employment size	Businesses		Total employment		Total income	
	No.	%	No.	%	\$m	%
0-4 persons	974	82.6%	1,875	31.3%	173.8	28.6%
5-9 persons	111	9.4%	690	11.5%	80.7	13.3%

10-19 persons	50	4.2%	689	11.5%	100.9	16.6%
20-49 persons	27	2.3%	799	13.3%	94.7	15.6%
50-99 persons	9	0.8%	619	10.3%	46.6	7.7%
100 persons or more	7	0.6%	1,326	22.1%	111.0	18.3%
Total	1,179	100%	5,998	100%	607.7	100%

Source: Australian Bureau of Statistics (ABS), *Film and Video Production and Distribution, 1993/94* (cat. no. 5679.0).

Notes:

Includes employing businesses mainly engaged in film and video production and post-production services. Does not include television broadcasters, subscription television channel providers or non-employing businesses.





Australian Bureau of Statistics

4172.0 - Arts and Culture in Australia: A Statistical Overview, 2009

Previous ISSUE Released at 11:30 AM (CANBERRA TIME) 21/10/2009

Contents >> Film and Video >> EMPLOYMENT

EMPLOYMENT

When making comparisons between the various sources of employment data for this sector it is important to take into consideration the differing scope and reference periods of the respective surveys.

Census of Population and Housing

The 2006 Census of Population and Housing collected employment data relating to the job in which a person worked the most hours during the week before the Census.

According to the Census, there were 8,900 people whose main job was in the Motion picture exhibition industry in August 2006. The Census also found that there were 7,364 people whose main job was in the Motion picture and video production industry, 898 people in Post-production services and other motion picture and video activities and 871 people in Motion picture and video distribution. Table 16.11 shows the top eight cultural occupations per industry. There are many other occupations involved in the film and video industry and these are grouped under Other cultural occupations and Other occupations.

16.11 PERSONS EMPLOYED IN FILM AND VIDEO INDUSTRIES(a)(b), By occupation - August 2006

	Number	%
Motion Picture and Video Production		
Media producer	1 424	19.3
Director	557	7.6
Film and video editor	539	7.3
Video producer	374	5.1
Production assistant	341	4.6
Camera operator	338	4.6
Other cultural occupations	1 808	24.6
<i>Total cultural occupations</i>	<i>5 381</i>	<i>73.1</i>
Other occupations	1 983	26.9
Total occupations	7 364	100.0
Postproduction Services and Other Motion Picture and Video Activities		
Film and video editor	136	15.1
Illustrator	91	10.1
Media producer	36	4.0
Graphic designer	24	2.7
Performing arts technicians	23	2.6
Sound technician	17	1.9
Other cultural occupations	188	20.9

	Total cultural occupations	515	57.3
	Other occupations	383	42.7
	Total occupations	898	100.0
Motion Picture and Video Distribution			
	Media producer	22	2.5
	Graphic designer	11	1.3
	Director	12	1.4
	Visual merchandiser	10	1.1
	Production assistant	5	-
	Librarian	7	0.8
	Other cultural occupations	47	5.4
	<i>Total cultural occupations</i>	<i>114</i>	<i>13.1</i>
	Other occupations	757	86.9
	Total occupations	871	100.0
Motion Picture Exhibition			
	Motion picture projectionist	869	9.8
	Cinema or theatre manager	868	9.8
	Director	59	0.7
	Actor	38	0.4
	Light technician	40	0.4
	Sound technician	35	0.4
	Other cultural occupations	349	3.9
	<i>Total cultural occupations</i>	<i>2 258</i>	<i>25.4</i>
	Other occupations	6 642	74.6
	Total occupations	8 900	100.0

- nil or rounded to zero (including null cells)

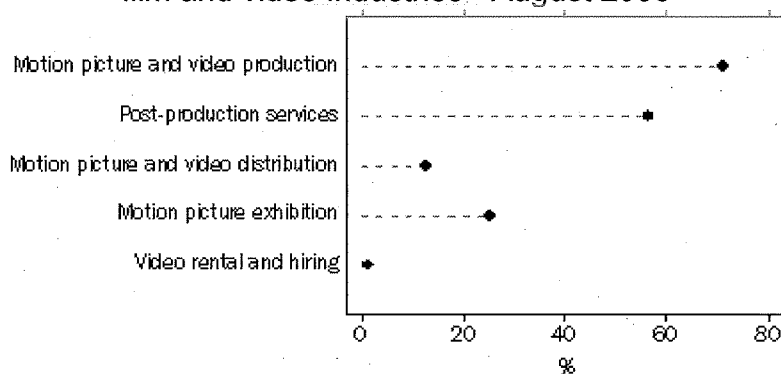
(a) Cells in this table have been randomly adjusted to avoid the release of confidential data.

(b) In their main job in the week before Census Night.

Source: ABS data available on request, Census of Population and Housing, 2006.

Over half of those employed in the film and video industries (54%) worked in non-cultural occupations. The percentage of persons employed in cultural occupations varied considerably amongst the film and video industries - from 2% in the Video rental and hire industry to 66% in the Motion picture and video production industry.

16.12 PERCENTAGE OF PERSONS EMPLOYED IN CULTURAL OCCUPATIONS^(a), By film and video industries - August 2006



(a) In their main job in the week before Census Night.

Source: ABS data available on request, Census of Population and Housing, 2006.

Work Survey

The 2007 survey of Work in Selected Culture and Leisure Activities reported that 117,700 people had a work involvement in either film production or cinema and video distribution in

the 12 months to April 2007. Nearly two thirds of those involved in Cinema and video distribution (64%) were paid for their work, as were just over one third (35%) of those involved in Film production. Unlike the Census of Population and Housing, this survey collects more than just 'main job' activity. See Chapter 5 for more details on the differences between the data collections.

Service Industry Surveys

According to the 2006-07 ABS survey of Television, Film and Video Production and Post-Production Services, there were 10,873 people employed by film and video production services businesses at the end of June 2007. For the same period, there were 2,971 people employed by post-production services businesses, and the commercial free-to-air and subscription television broadcasters collectively employed 10,032 people.

[Previous Page](#)

[Next Page](#)

This page last updated 18 October 2010

© Commonwealth of Australia 2011



Unless otherwise noted, content on this website is licensed under a Creative Commons Attribution 2.5 Australia Licence together with any terms, conditions and exclusions as set out in the website Copyright notice. For permission to do anything beyond the scope of this licence and copyright terms contact us.

DEPARTMENT OF THE PRIME MINISTER AND CABINET
OFFICE FOR THE ARTS

PM&C
Secretary
Mr Eccles
Ms Bassor

To: Minister for the Arts (for information)

MO
Mr Clifton
Ms O'Neil

FOREIGN ACTOR CERTIFICATION SCHEME: ADDITIONAL INFORMATION – EMPLOYMENT IN
THE SCREEN SECTOR

Timing: 31 March 2011

File:
2010/07023

Recommendation - that you:		s22
1. Note the information provided.	s22	s22
s22	s22	s22
s22	s22	Noted
Simon Crean	Date:	09 MAR 2011

Purpose: Your office requested additional information in relation to the Foreign Actor Certification Scheme (FACS) on 28 February 2011 to assist your consideration of the FACS Guidelines Review (B10/1788).

Key Points:

1. The policy objective of the FACS is to provide opportunities for Australian actors to appear in productions made here, so that Australian faces and voices are seen and heard on screen. In administering the FACS, the Office for the Arts must also recognise the Australian Government's broader screen policy objectives to encourage film production and attract foreign investment to Australia.
 - a. Productions that are largely or wholly foreign financed are likely to require internationally recognised actors in order to sell in overseas markets and thereby provide reassurance to investors of returns on their investment.
 - b. Industry advice is that international finance is often tied to the engagement of high profile foreign actors and that lesser known Australian actors are not suitable for the roles or acceptable to financiers. The pool of high profile Australian actors is only small and they are often not suitable or available for particular roles in foreign financed productions.

At a glance

- In the last Census (2006) 260 people listed 'actor' in the audiovisual industries as their main occupation. A further 1,064 actors worked in other industries.
- Over 45,000 people were employed in the audiovisual industries in 2006.
- A large budget film can employ hundreds of Australian actors over the course of production, plus hundreds of Australian crew.

Australian Bureau of Statistics data

3. Screen Australia analyses the Australian Bureau of Statistics' Service Industry Survey (for film and television) and Census data to provide comprehensive information on the sector. The following information is the result of Screen Australia's analysis and is available on their website: www.screenaustralia.gov.au/research/. s22
- a. The number of actors in paid employment in 2009-10 is not known. However, in 2006, Census data shows that 260 people stated that their main occupation in the previous week was as an actor in the audiovisual industries (film and television production and post-production, exhibition and distribution) and a further 1,064 people working in other industries also listed their main occupation as actor.
 - i. The audiovisual industry occupation with the highest number of employees is Sales Assistant (mainly for DVD hire – 7,466 people). Other occupations in screen distribution also rank highly in terms of the number of people who have it as their main occupation.
 - ii. The highest ranking creative/production occupations in the industry are Film and Video Editor (1,357 people), followed by Camera Operator (film, television or video – 1,027 people).
- b. According to the Australian Bureau of Statistics' Service Industry Survey (a sample survey, not a comprehensive census) as analysed by Screen Australia, at the end of June 2007, the screen production and post-production services industry was composed of 2,492 businesses, which employed approximately 13,800 people (10,873 in production, 2,971 in post-production) and generated approximately \$2.028 billion of income. s22
 - i. This includes businesses that were mainly engaged in film, television program, commercial and video production, as well as post, digital and visual effects (PDV) service providers.
 - ii. The nature of the production industry sees peaks and troughs in employment levels depending on production activity at any given time. Screen Australia also notes that many in the industry work as freelancers and that the survey may not accurately capture these people.
- c. The 2007 Work in Selected Culture and Leisure Activities Survey shows that during the 12 months prior to April 2007, an estimated 43,400 people had some paid involvement in television activities and 34,600 had some paid involvement in film production. A further 20,900 had some paid involvement in cinema and video distribution.
 - i. The higher level of employment than indicated by the Service Industry Survey can be attributed to the casual or infrequent nature of most people's participation across the year.

Media, Entertainment and Arts Alliance membership

4. The 2009-10 Media, Entertainment and Arts Alliance Annual Report states that in June 2010, of a total 17,979 members, it had 6,393 Equity members (performers on stage and screen).

Foreign Actor Certification Scheme data

5. The large budget productions made in Australia tend to be financed almost entirely by foreign investment. Two recent FACS applications demonstrate the large number of Australian cast and crew that are attached to large budget productions and the employment benefit this brings:

a. s45

b. s45

6. Medium budget productions also provide benefit to a large number of Australian cast and crew.

a. s45

Tertiary education

7. The National Institute of Dramatic Art is best known for its acting courses, but also trains students in other creative roles. In 2009, 73 students were enrolled in acting courses (approximately 24 are enrolled each year), with a total of 166 enrolled in all courses for the year.


COMMERCIAL IN-CONFIDENCE

8. In 2009-10 the Australian Film, Television and Radio School delivered 29 award courses (Diploma, Graduate Certificate or Master of Arts) and enrolled 390 new students. Subjects covered by award courses include a range of creative screen and broadcasting roles, including screenwriting, art direction, cinematography, editing and radio broadcasting.



Sally Basser
First Assistant Secretary
Office for the Arts

3 March 2011

Policy Officer: Stephen Arnott
Phone no: 6275 9557 / 

DEPARTMENT OF THE PRIME MINISTER AND CABINET
OFFICE FOR THE ARTSFILE
COPYPM&C
Secretary
Mr Eccles
Ms Bassier

To: Minister for the Arts (for information)

MO
Mr Clifton
Ms O'NeillFOREIGN ACTOR CERTIFICATION SCHEME: ADDITIONAL INFORMATION – EMPLOYMENT IN
THE SCREEN SECTOR

Timing: 31 March 2011

File:
2010/07023

Recommendation - that you:

1. Note the information provided.

Noted

Simon Crean

Date:

Purpose: Your office requested additional information in relation to the Foreign Actor Certification Scheme (FACS) on 28 February 2011 to assist your consideration of the FACS Guidelines Review (B10/1788).

Key Points:

1. The policy objective of the FACS is to provide opportunities for Australian actors to appear in productions made here, so that Australian faces and voices are seen and heard on screen. In administering the FACS, the Office for the Arts must also recognise the Australian Government's broader screen policy objectives to encourage film production and attract foreign investment to Australia.
 - a. Productions that are largely or wholly foreign financed are likely to require internationally recognised actors in order to sell in overseas markets and thereby provide reassurance to investors of returns on their investment.
 - b. Industry advice is that international finance is often tied to the engagement of high profile foreign actors and that lesser known Australian actors are not suitable for the roles or acceptable to financiers. The pool of high profile Australian actors is only small and they are often not suitable or available for particular roles in foreign financed productions.

At a glance

- In the last Census (2006), 260 people listed 'actor' in the audiovisual industries as their main occupation. A further 1,064 actors worked in other industries.
- Over 45,000 people were employed in the audiovisual industries in 2006.
- A large budget film can employ hundreds of Australian actors over the course of production, plus hundreds of Australian crew.

Australian Bureau of Statistics data

3. Screen Australia analyses the Australian Bureau of Statistics' Service Industry Survey (for film and television) and Census data to provide comprehensive information on the sector. The following information is the result of Screen Australia's analysis and is available on their website: www.screenaustralia.gov.au/research/.
 - a. The number of actors in paid employment in 2009-10 is not known. However in 2006, Census data shows that 260 people stated that their *main* occupation in the previous week was as an actor in the audiovisual industries (film and television production and post-production, exhibition and distribution) and a further 1,064 people working in other industries also listed their main occupation as actor.
 - i. The audiovisual industry occupation with the highest number of employees is Sales Assistant (mainly for DVD hire – 7,466 people). Other occupations in screen distribution also rank highly in terms of the number of people who have it as their main occupation.
 - ii. The highest ranking creative/production occupations in the industry are Film and Video Editor (1,357 people), followed by Camera Operator (film, television or video – 1,027 people).
 - b. According to the Australian Bureau of Statistics' Service Industry Survey (a sample survey, not a comprehensive census) as analysed by Screen Australia, at the end of June 2007, the screen production and post-production services industry was composed of 2,492 businesses, which employed approximately 13,800 people (10,873 in production, 2,971 in post-production) and generated approximately \$2.028 billion of income.
 - i. This includes businesses that were mainly engaged in film, television program, commercial and video production, as well as post, digital and visual effects (PDV) service providers.
 - ii. The nature of the production industry sees peaks and troughs in employment levels depending on production activity at any given time. Screen Australia also notes that many in the industry work as freelancers and that the survey may not accurately capture these people.
 - c. The 2007 Work in Selected Culture and Leisure Activities Survey shows that during the 12 months prior to April 2007, an estimated 43,400 people had some paid involvement in television activities and 34,600 had some paid involvement in film production. A further 20,900 had some paid involvement in cinema and video distribution.
 - i. The higher level of employment than indicated by the Service Industry Survey can be attributed to the casual or infrequent nature of most people's participation across the year.

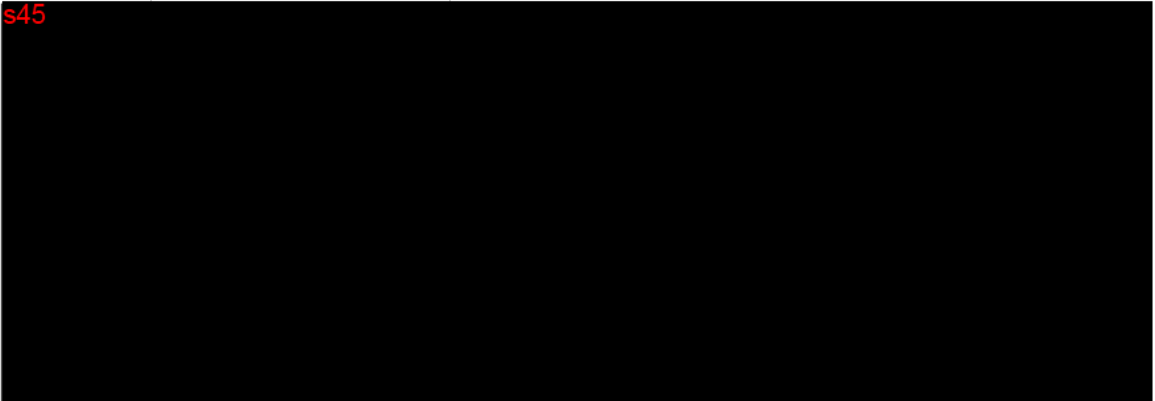
Media, Entertainment and Arts Alliance membership

4. The 2009-10 Media, Entertainment and Arts Alliance Annual Report states that in June 2010, of a total 17,979 members, it had 6,393 Equity members (performers on stage and screen).

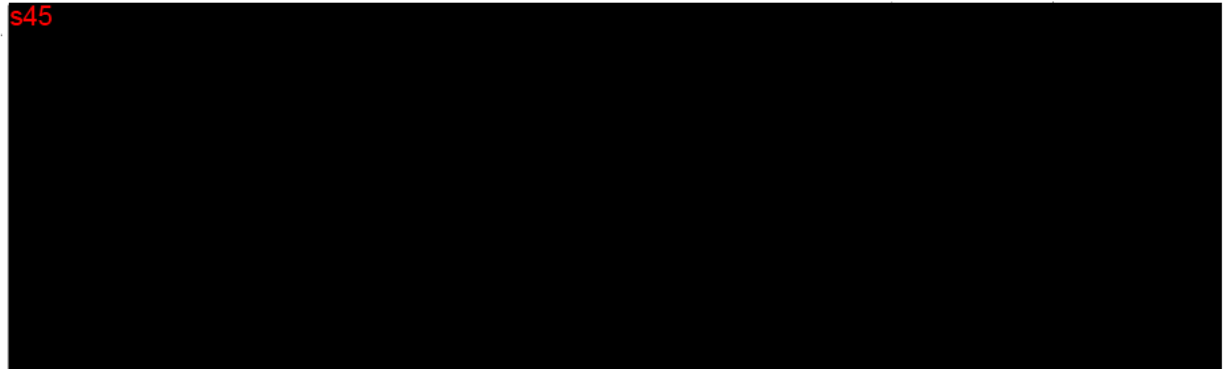
Foreign Actor Certification Scheme data

5. The large budget productions made in Australia tend to be financed almost entirely by foreign investment. Two recent FACS applications demonstrate the large number of Australian cast and crew that are attached to large budget productions and the employment benefit this brings:

a. s45

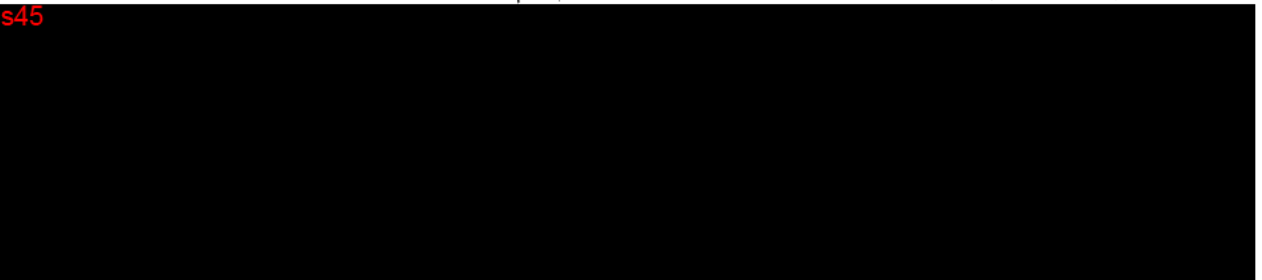


b. s45



6. Medium budget productions also provide benefit to a large number of Australian cast and crew.

a. s45



Tertiary education

7. The National Institute of Dramatic Art is best known for its acting courses, but also trains students in other creative roles. In 2009, 73 students were enrolled in acting courses (approximately 24 are enrolled each year), with a total of 166 enrolled in all courses for the year.

8. In 2009-10 the Australian Film, Television and Radio School delivered 29 award courses (Diploma, Graduate Certificate or Master of Arts) and enrolled 390 new students. Subjects covered by award courses include a range of creative screen and broadcasting roles, including screenwriting, art direction, cinematography, editing and radio broadcasting.



Sally Bassar
First Assistant Secretary
Office for the Arts

3 March 2011

Policy Officer: Stephen Arnott

Phone no: 6275 9557 / s47F



Australian Government

**Department of the
Prime Minister and Cabinet
Office for the Arts**

Foreign Performers Certification Scheme Guidelines

Formatted: Font: 26 pt

**~~Guidelines for the entry into
Australia of foreign performers
for the purpose of performing
in film and television
productions~~**

Australian Government

[insert month] 2011

April

TABLE OF CONTENTS:

	Page
Introduction.....	2
Section A - Scope.....	3
Section B - Terms and Definitions.....	4
Section C - Treatment of Subsidised and Unsubsidised Productions.....	7
<u>Subsidised Productions</u>	7
Category 1 - Productions in receipt of a direct Government Subsidy	7
Category 2 - Productions NOT in receipt of direct Government Subsidy but eligible to access the Producer Offset.....	8
Category 3 - Productions eligible to access the Location or PDV Offsets	9
<u>Unsubsidised Productions</u>	9
Section D - Flexibility Circumstances and Evidence Required for Category	10
Subsidised Productions.....	10
Highly specialist/unusual roles.....	10
Ethnicity.....	10
Continuity	11
Unexpected change in the level of Foreign Investment	11
Private investment being dependent on the engagement of foreign Performer.....	11
Overall benefit to the Australian film and television industry	12
Section E - Application Process.....	14
Initial contact with relevant agencies	14
MEAA consultation – letter of opinion.....	15
OFTA assessment and decision – Foreign Performer Certificate.....	15
Submitting an application	15
Application assessment	16
Decision on certification	17
DIAC processing – entertainment visa	17
Section F - Casting Guidelines.....	18
Section G - Contacts for Further Information.....	19

FOREIGN PERFORMERS CERTIFICATION SCHEME GUIDELINES

INTRODUCTION

This revised version of the *Foreign Performers Certification Scheme (FPCS) Guidelines on the entry into Australia of foreign performers for the purpose of performing in film and television productions* was adopted on [?? 2011].

Purpose

The Scheme Guidelines supports key Government objectives for the film and television industry including providing Australian industry personnel with a fair chance of securing employment in Film or Television Productions shot in Australia, ensuring Australian voices are heard in Australian productions, and building a commercially sustainable film and television industry.

Who needs to apply?

The Guidelines Scheme deals exclusively with the employment of specified On-screen Foreign Performers entering Australia to take part in specified Film and Television Productions. They are the basis on which the Arts Minister, or a person authorised by the Arts Minister, determines whether to certify that specified requirements identified in the Migration Regulations have been met. Please see Sections B, C and D for more information.

How do I apply?

The Guidelines are administered by the OFTA Office for the Arts (OFTA).

The Migration Regulations require that a subclass 420 visa, which is assessed against the criteria in sub-paragraphs 2.72D(4) and (5), not be approved unless the visa application is supported by a Foreign Performer Certificate issued by the Arts Minister. Regulation 2.72D(4) and 2.72D(5) are included as an Appendix to this document.

In addition, under the Migration Regulations require that the sponsorship of the proposed visa applicant cannot be approved unless the Sponsor must have consulted the relevant Australian unions. For the purposes of these Guidelines this Scheme, the relevant union is the Media Entertainment and Arts Alliance (MEAA). This consultation process is undertaken as part of the process of applying for a Foreign Performer Certificate from the Arts Minister.

More detailed information is contained in Section E.

Is there a cost when applying to OFTA?

No fee is charged by OFTA. Applicants must contact MEAA and the Department of Immigration and Citizenship (DIAC) for advice on their fees.

How long does OFTA take to assess an application?

OFTA requires five working days to process an application, and may seek further information at any point in the application assessment process in order to establish whether certification should occur. Further information is included in Section E.

Applicants must contact MEAA and the Department of Immigration and Citizenship for advice on their processing timeframes.

Who do I contact for more information?

Contact details for OFTA, MEAA and DIAC contact details can be found in Section G.

Formatted: Centered, Space After: 0 pt

Formatted: Space After: 0 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt, Italic

Formatted: Font: 11 pt

Formatted: Font: 11 pt, Bold

Formatted: Font: 11 pt

Formatted: Font: 11 pt, Bold

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt, Bold

Formatted: Indent: Left: 0 cm

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt, Bold

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt, Bold

Formatted: Font: (Default) Times New Roman, 11 pt

Formatted: Font: Bold

Formatted: Normal, Left, Space After: 0 pt

SECTION A — SCOPE

1. The Foreign Performers Certification Scheme applies to the import of Fforeign On-screen Performers taking part in the following specified forms of Film or Television Production intended for distribution via platforms such as cinema exhibition, television broadcast, DVD, and Internet and mobile devices:
 - (a) Feature Films;
 - (b) Telemovies;
 - (c) Series, Serials and Sketch Comedy Programs
 - (i) excluding Fforeign Performers/celebrities who take part in or make brief, one-off appearances as themselves in Film or Television Productions as themselves, when this participation is incidental to their main purpose for entering Australia (which might include live performance concert tours and other promotional activities);
 - (d) Documentaries and dramatised Documentaries
 - (i) excluding all On-screen Performers other than foreign Hosts and Fforeign Performers in dramatic roles.
2. The Guidelines set out the circumstances under which applications can be considered for the import of foreign Performers to take part in the Film or Television Productions and roles specified above.
3. The Guidelines do NOT apply to:
 - (a) Fforeign Performers in roles or forms of Film or Television Production other than those specified above. Visa applications for such Performers will be considered by the Department of Immigration and Citizenship (DIAC) under the appropriate Migration Regulations; or
 - (b) Fforeign Performers seeking visas to enter Australia under an agreement between Australia and another country, such as Australia's bilateral film co-production agreements. A person may lodge an application to be considered by DIAC under subclass 406 of the Migration Regulations. -Screen Australia administers the Commonwealth Government's International Co-production Program and determines applications for projects to be approved as Official Co-productions.

Formatted: Space After: 0 pt

SECTION B - TERMS AND DEFINITIONS

Formatted: Space After: 0 pt

'Australian Content Criteria' or 'ACC' means the criteria describing required for Category 1, Category 2, and Category 3 Government Subsidised productions set out in Section C of these guidelines.

'Cameo Actor Role' means a brief but important dramatic role in a Film or Television Production, usually performed by a well-known On-screen personality Performer.

'DIAC' means the Department of Immigration and Citizenship.

'Documentary' means a program that is a creative treatment of actuality, other than a news, current affairs, sports coverage, magazine, infotainment, light entertainment or reality program.

'Feature Film' means a film, including an animated film, commonly screened as the main attraction in a commercial cinemas that is no less than 60 minutes, or in the case of a larger format (IMAX) film no less than 45 minutes duration, and shot and processed to commercial standards for cinema exhibition, television broadcast or distribution via other platforms.

Comment [p1]: Is this clear? (CF: I don't have a problem with it as I believe it refers to a quality that could be shown in commercial venues and that people would pay to see)

'Film or Television Production' means a production intended for cinema exhibition, television broadcast, or distribution via other platforms (such as DVD, and internet and mobile phone downloads) and includes a Feature Film, Telemovie, Series, Serial, Sketch Comedy Program, Documentary and dramatised Documentary but does not include computer games.

'Foreign Investment' includes overseas sourced funds where such investment is secured against returns from foreign markets, regardless of whether the funds are equity investment or not, including direct investment and revenue raised through pre-sales and distribution in overseas markets.

'Foreign Performer' means:

- (a) a Performer in a Feature Film; Telemovie; drama Series, Serial or Sketch Comedy Program; or dramatised Documentary who is performing:
 - (i) a Leading, Supporting or Cameo Actor role;
 - (ii) as a Motion-capture Performer, Puppeteer, Stunt Performer or Voice-over Performer; or
- (b) as a Host in a Documentary or dramatised Documentary.

'Government Subsidy' means and includes any form of government financial support other than developmental funding and includes:

- (a) direct subsidies such as direct investment, loans (excluding loans to cashflow the Producer Offset), distribution guarantees and pre-sales;
- (b) indirect subsidies such as tax concessions (e.g. Producer Offset, Location Offset, Post, Digital and Visual Effects Offset in Division 376 of the *Income Tax Assessment Act 1997*).

For the purposes of this definition 'government' includes Commonwealth and Australian state and territory governments ~~film and television agencies~~, but excludes the Australian Broadcasting Corporation and the Special Broadcasting Service.

'Host' means the central scripted Performer in a Documentary or dramatised Documentary who introduces and presents the material to a viewing audience and who may also be referred to as "compere", "presenter", "commentator" or "narrator".

'Leading Performer Actor Role' means the dramatic role of protagonist or one of the central or main roles-characters in a Film or Television Production.

Comment [p2]: Should this be performer? (CF: Not in this context as its describing what we constitute a performer - see def'n of foreign performer)

'Media Entertainment and Arts Alliance' or **'MEAA'** means the Media Entertainment and Arts Alliance, the union representing employees in the media, entertainment, sport and the arts.

'Motion-capture Performer' means a Performer in a computer animation production in a role which involves a performance from which points can be tracked on a moving face or body in order to get a simplified image of motion., e.g. the animation of the penguins in Happy Feet.

s45

'OFTA' means the Office for the Arts, Department of the Prime Minister and Cabinet.

'Official Co-production' means a production for which a Foreign Performer seeks to enter Australia under an agreement between Australia and another country, under the International Co-production Program administered by Screen Australia, for which visa applications are considered by the Department of Immigration and Citizenship (DIAC) under subclass 406 of the Migration Regulations.

'On-screen Performer' means:

- (a) ~~a Performer in a Feature Film; Telemovie; drama Series, Serial or Sketch Comedy Program; or dramatised Documentary who is performing;~~
 - (i) ~~a Leading, Supporting or Cameo Actor role;~~
 - (ii) ~~as a dancer, Motion-capture Performer, Puppeteer, Stunt Performer or Voice-over Performer; or~~
- (b) ~~as a Host in a Documentary or dramatised Documentary.~~

'Puppeteer' means a manipulator of any variety of puppet, whose work appears in a Film or Television Production.

'Serial' means a Film or Television Production which is a narrative series made up of two or more episodes that:

- (a) are produced wholly or principally for public exhibition under a single title, for ~~both~~ either free-to-air (broadcast network) and subscription television (cable or satellite); and
- (b) ~~comprise~~ a potentially unlimited number of episodes, relating a number of equally important and overlapping plots, without an apparent single major plot

necessarily moving towards a resolution and arranged into consecutive episodes for screening purposes.

'Series' means a Film or Television Production which is a narrative series made up of two or more episodes that:

- (a) are produced wholly or principally for public exhibition under a single title, for either both free-to-air (broadcast network) and subscription television (cable or satellite);
- (b) have a common theme or themes that draws the episodes of the series into a cohesive whole;
- (c) contain dramatic elements that form a narrative structure; and
- (d) are intended for exhibition together in a national market or markets.

'Sketch Comedy Program' means a Film or Television Production comprising comedy and satirical sketches that are short, self-contained stories or plots; but does not include a stand-up comedy program or an incidental sketch that is a component in a program of another kind.

'Sponsor' means an Australian producer applying for a Foreign Performer Certificate or an Australian sponsor acting on behalf of a foreign producer in making this application.

'Stunt Performer' means a Performer engaged to perform dangerous scenes in a Film or Television Production and/or who doubles for one of the actors chosen for a particular role.

'Supporting Actor Role' means a dramatic role which is more than a Cameo but not a central Leading Performer Actor role in a Film or Television Production.

'Telemovie' means a drama program of a like nature to a Feature Film, which is not less than 60 minutes ~~one commercial television hour~~ in length and shot and processed to commercial release standards for television broadcast or distribution via other platforms (such as DVD and internet and mobile phone downloads).

'Traditional Australian Character' means an Australian character that appears in Australian literature (e.g. *Man from Snowy River*, *The Shiralee*, etc) or is a recognised part of Australia's history and/or folklore (e.g. Dame Nellie Melba, Ned Kelly, etc).

'Voice-over Performer' means a Performer who provides recorded dialogue or narration, that comes from an unseen, off-screen voice in a Film or Television Production.

SECTION C - TREATMENT OF SUBSIDISED AND UNSUBSIDISED PRODUCTIONS

1. In accordance with the requirements of the Migration Regulations, the Guidelines set different criteria for assessing the appropriateness of foreign Performers taking part in a specified Film or Television Production in Australia based on whether or not the production has, or will receive, a Government Subsidy.
2. Sponsors are required by the Migration Regulations to consult with the MEAA in relation to each application for a Foreign Performer Certificate before submitting the application to OFTA. Details of the application process, including consultation requirements, are at Section E.
3. In seeking to import foreign Performers, Sponsors will need to identify the type of production proposed and satisfy the corresponding criteria as outlined below. Since every production that proceeds in Australia provides at least some benefit to the Australian screen industry through employment opportunities for Performers, crews and other film production service providers, a Sponsor must present a convincing case in its application to OFTA which demonstrates that the import of a foreign Performer is necessary for a particular production and consistent with the Government's cultural and commercial film policy objectives:

Formatted: Space After: 0 pt

Formatted: No bullets or numbering

Comment [P4]: I think these two para should be deleted. They are covered in Section D and the application process.

SUBSIDISED PRODUCTIONS Subsidised Productions

Formatted: Font: 12 pt

Formatted: Space After: 0 pt

Formatted: Font: 12 pt, Underline

- 4.1. A production is considered subsidised if it has, or will receive, a Government Subsidy.
- 5.2. For a foreign Performer to take part in a subsidised Film or Television Production, the application for a Foreign Performer Certificate must satisfy the requirements set out in the Australian Content Criteria (ACC) detailed below.
- 6.3. However, please note the The ACC requirements vary depending on whether or not the production in which the Foreign Performer is to appear:
 - (a) receives a direct Government Subsidy (—see Category 1)—below; or
 - (b) is likely to access the Producer Offset and is receiving no direct Government Subsidy (—see Category 2)—below; or
 - (c) is likely to access the Location or PDV Offset (—see Category 3)—below.

State incentives??

Formatted: Left

Category 1 - ACC for Film or Television Productions in receipt of a direct Government Subsidy

Formatted: Font: 12 pt, Italic, No underline

* Does not apply to productions intending to access the Location or PDV offsets.

Formatted: Space After: 0 pt

- 7.4. Reasonable opportunity must be given to employing Australian Performers at all levels of the production, demonstrated by and:

Formatted: Font: Italic, No underline

Formatted: Indent: Left: 0 cm, Space After: 0 pt

- (a) the casting of Leading and major Supporting Actor Roles must accurately reflect the Australian characters portrayed;
- (b) at least 50 per cent of Performers in Leading Actor roles and 75 per cent of Performers in major Supporting Actor Roles must be Australian; and

- (c) where applicable, an Australian Performer must be cast to play each Traditional Australian Character.

8.5. The level of Foreign Investment in a production's budget will be a factor considered in assessing applications for the importation of Fforeign Performers on a case by case basis. As a general guidance, the greater the level of Foreign Investment in the production over 20 per cent, the greater the possible opportunity for the employment of Fforeign Performers in Leading, Supporting and Cameo Actor Roles within the above parameters. For example, where a minimum of:

- (a) 20 per cent of a production's budget is Foreign Investment and the budget in the case of a Feature Film is less than \$4.0 million, in the case of a Telemovie less than \$2.0 million, or in the case of a Series or Serial less than \$0.75 million per commercial hour, the employment of one Fforeign Performer may be appropriate;
- (b) 20 per cent of a production's budget is Foreign Investment and the budget in the case of a Feature Film is \$4.0-12.0 million, in the case of a Telemovie more than \$2.0 million, or in the case of a Series or Serial is \$0.75-1.0 million per commercial hour, the employment of one Fforeign Performer in a Leading Actor Role and one Fforeign Performer in a Supporting or Cameo Actor Role may be appropriate;
- (c) 20 per cent of a production's budget is Foreign Investment and the budget in the case of a Feature Film is more than \$12.0 million, or in the case of a Series or Serial, more than \$1.0 million per commercial hour, the employment of one additional Fforeign Performer may be appropriate to play a Cameo Actor Role.

Comment [p5]: JC questioned

Comment [p6]: JC questioned

9.6. Where a Sponsor seeks to import a Fforeign Performer on the basis that a suitable Australian Performer cannot be found, the Sponsor must demonstrate that a genuine attempt has been made to locate a suitable Australian Performer. OFTA Casting Guidelines are at Section F.

Formatted: Font: 12 pt

10.7. When no Australian Performer can be cast to satisfy the requirements of a role, the employment of a Fforeign Performer may be appropriate in the following circumstances:

- (a) highly specialist/unusual roles; or
- (b) ethnicity; or
- (c) continuity; or
- (d) unexpected change in the level of Foreign Investment; or
- (e) private investment being dependent on the engagement of a Fforeign Performer; or
- (f) overall benefit to the Australian film and television industry (see guidelines on defining 'overall benefit' at Section D).

Comment [p7]: Measured? (CF: Definition is in Section D)

11.8. If a Sponsor seeks consideration on the basis of factors listed in paragraph 10 above, the Sponsor will be required to provide additional evidence in support of their application as detailed in Section D.

Formatted: Font: 12 pt, Highlight

Formatted: Space After: 0 pt

Category 2 - ACC for Film or Television Productions NOT in receipt of direct Government Subsidy but eligible to access the Producer Offset

Formatted: Font: 12 pt, Italic, No underline

Formatted: Space After: 0 pt

Formatted: Font: Italic, No underline

- 12.9. The Sponsor must provide evidence that the production has obtained provisional certification to access the Producer Offset. Evidence must include a copy of the Provisional Certificate and covering letter from Screen Australia.

Formatted: Font: 12 pt, Highlight

Note: Further information regarding the Producer Offset application process is available on Screen Australia's website at

http://www.screenaustralia.gov.au/producer_offset/prov_certification.asp

Note: Productions in receipt of direct Government Subsidy in addition to accessing the Producer Offset must apply for Foreign Performers Certification under Subsidised Productions 'Category 1' above.

Formatted: Space After: 0 pt

Category 3 - ACC for Film or Television Productions eligible to access the Location or PDV Offsets

Formatted: Font: 12 pt, Italic, No underline

Formatted: Font: Italic, No underline

- 13.10. The Sponsor must provide evidence that the production intends to access the Location or PDV Offsets. Evidence may include a letter of intent from the relevant production company and/or demonstration that the production budget exceeds the Location or PDV Offset eligibility criteria for minimum expenditure thresholds.

Note: The fact that a production eligible to access the Location or PDV Offset is may also be in receipt of direct Government Subsidy does not impose any additional requirements in this instance. Such a production is only required to satisfy the Category 3 requirement set out in paragraph 13 and does not have to satisfy any of the Category 1 requirements set out in paragraphs 7-11.

Comment [P8]: CF: I don't understand the reasoning of this.

JS: I'm unsure that it is necessary as the categories deal with two different things - direct gov subsidy, and indirect subsidy offsets that come after the film is made.

UNSUBSIDISED PRODUCTIONS

- 14.11. Unsubsidised productions, including those fully funded offshore, must satisfy the following criteria:

Formatted: Space After: 0 pt

Formatted: Font: 12 pt, Underline

- (a) Australian citizens/residents have been provided with a reasonable opportunity to participate in all levels of the production; and
- (b) the sum of Foreign Investment exceeds the amount to be expended on the Foreign Performers while they are in Australia to take part in the unsubsidised production.

- 15.12. In making an application to import foreign Performers, the Sponsor must demonstrate that reasonable efforts have been made to cast Australian Performers at all levels of the production. OFTA Casting Guidelines are at Section F.

- 16.13. In relation to Foreign Investment, the Sponsor must provide OFTA with documentation demonstrating that the Foreign Investment component of the production's budget is greater than the salary of that expended on the proposed Foreign Performers while they are in Australia to take part in the unsubsidised production. Expenditure on foreign Performers in Australia includes salary, living allowances, travel and other expenditure associated with their stay in Australia.

SECTION D - FLEXIBILITY CIRCUMSTANCES AND EVIDENCE REQUIRED FOR SUBSIDISED PRODUCTIONS: CATEGORY 1

Formatted: Space After: 0 pt

1. As noted in Section C, where the Sponsor demonstrates that an Australian Performer cannot be found to fill a role for a production in receipt of direct Government Subsidy (Subsidised Productions 'Category 1'), importation of a Foreign Performer may be considered in the circumstances outlined below on the basis of additional evidence provided by the Sponsor in support of the application.
2. Please note that proof of a genuine search of the Australian labour market to fill the role with an appropriately qualified or experienced Australian Performer will be required in the first instance. The evidence required is set out in the OFTA Casting Guidelines at Section F.
3. Sponsors who intend to make an application for importation of a Foreign Performer in the following circumstances outlined below must mount a convincing case supported by the documentary evidence. The simple assertion that Foreign Performer participation is critical will not be sufficient.
4. Please also note that the circumstances detailed below are not intended to lead to exploitation as a minimum standard applied to all productions.
- 5.4. If a Sponsor believes that there are other compelling reasons to import a Foreign Performer beyond those circumstances detailed below they should contact both MEAA and OFTA to present a case. Such approaches will be considered on their merits on an individual basis.

Comment [p9]: Is this necessary? The intent is unclear.

Highly specialist/unusual roles

Formatted: Space After: 0 pt

- 6.5. The Foreign Performer is necessary to perform a highly specialist or unusual role which requires specific or specialist attributes including, but not limited to, physical appearance, physical talent and linguistic or vocal skills. Please note that foreign language and accent requirements* for a particular role are not necessarily sufficient grounds for importing a Foreign Performer.
- 7.6. Evidence that may be required:
 - (a) script or synopsis demonstrating that the role requires certain highly specialist attributes; and
 - (b) documentation such as a listing of personal attributes or specialist skills from a resume or curriculum vitae that supports the claim that the proposed Foreign Performer possesses the attributes necessary to perform the role; and
 - (b)(c) that all reasonable efforts have been made to cast the role with an Australian Performer (see Casting Guidelines at Section F).

Formatted: Font color: Gray-80%, English (United Kingdom)

Formatted: Space After: 0 pt

* Australia is a multicultural country. Many Australian performers are competent in a variety of languages other than English, or and can speak with an extensive range of English language and non-English language accents.

Ethnicity

8.7. The Fforeign Performer is necessary for reasons of ethnicity required by the role. Please note that foreign language and accent requirements* for a particular role are not necessarily sufficient grounds for importing a foreign Performer.

9.8. Evidence that may be required:

- (a) script or synopsis demonstrating that specific ethnic characteristics are required by the role; and and
- ~~documentation verifying that the proposed Fforeign Performer is of the ethnicity required; and~~
- (b) that all reasonable efforts have been made to cast the role with an Australian Performer (see Casting Guidelines at Section F).

Formatted: Space After: 0 pt

Comment [p10]: Is this required?

Formatted: Space After: 0 pt

Continuity

10.9. The Fforeign Performer is necessary for reasons of continuity.

11.10. Evidence that may be required:

- (a) documentation, such as a Performer contract, cast list or press clippings, supporting the claim that the Fforeign Performer has worked on, or will be working on, the same production outside Australia for at least one month.

Formatted: Indent: Left: 0 cm, First line: 0 cm, Space After: 0 pt

Formatted: Space After: 0 pt

Unexpected change in the level of Foreign Investment

12.11. Where the initial level of Foreign Investment in a production's budget allows for the importation of Fforeign Performers, but decreases unexpectedly, consideration will be given to approving the importation of Fforeign Performers already attached to the production. For example, if a foreign investor may withdraws support due to financial pressures and be replaced by an Australian investor at short notice.

13.12. Evidence that may be required:

- (a) details of the production budget;
- (b) documentation from private investors committing to the production; and
- (c) ~~documentation verifying the genuine~~ reasons for and date of withdrawal of a foreign investor. ~~investor and the reasons for the withdrawal; and~~
- (d) ~~documentary proof that a genuine attempt has been made to secure replacement foreign investors.~~

Comment [p11]: Is this necessary?
(CF: Yes for this I think it is)

Comment [p12]: Is this necessary?

Formatted: Space After: 0 pt

Private investment being dependent on the engagement of a Fforeign Performer

14.13. The Fforeign Performer is commercially necessary to secure Australian and/or Foreign Investment in the production or overseas pre-sales and distribution deals.

15.14. Evidence that may be required:

- (a) details of the production budget;
- (b) one or more of the following documents as necessary:
 - (i) letter of confirmation or contract from the production's principal private relevant investor that finance in the production is dependent on the Fforeign Performer's participation;
 - (ii) letter of confirmation or contract from the production's distributor that distribution is dependent on the Fforeign Performer's participation;
 - (iii) contracts indicating that overseas pre-sales are dependent on the Fforeign Performer's participation;
 - (iv) where the Fforeign Performer is internationally known, documentary proof of their box office appeal through international box office figures for Film and Television Productions in which they have undertaken Leading or major Supporting Actor Roles; and/or
 - (v) where the Fforeign Performer is an emerging On-screen Performer, or cast to appeal to a particular overseas audience, documentation in support of their potential box office appeal such as resume/filmography details including previous work, reviews, awards/accolades, and/or other evidence of audience appeal.

Overall benefit to the Australian film and television industry

~~16.15. The Fforeign Performer is necessary to ensure that the production proceeds in Australia, and proceeds on the scale originally envisaged rather than being significantly diminished, and the size of the production's budget is such that associated local employment opportunities constitute an overall net economic benefit for the Australian film and television industry. Net economic benefit could include additional employment opportunities for Australian Performers and crews, longer employment contracts as a consequence of a larger production budget and longer production schedules, and significant commercial opportunities for other film production service providers in Australia.~~

~~17.16. Please note that W-where a Sponsor claims there is a financial imperative to engage a Fforeign Performer which is not demonstrated by a higher level of Australian and/or Foreign Investment in the production budget, a detailed explanation of that financial imperative will be required.~~

~~18.17. Evidence that may be required to demonstrate that the scale of the production would be significantly diminished the significantly diminished scale of the production if the Fforeign Performer for whom certification is being sought is not attached to the production, includesing:~~

~~If production were to proceed with foreign Performer~~

- (a) details of the estimated production budget including estimated expenditure in Australia;
- (b) one or more of the following documents as necessary:

Formatted: Space After: 0 pt

Comment [p13]: This is subjectively worded.

- (i) letter of confirmation from the production's principal private relevant investor that investment in the production is dependent on the Fforeign Performer's participation;
- (ii) letter of confirmation from the production's distributor that distribution is dependent on the Fforeign Performer's participation;
- (iii) contracts indicating that overseas pre-sales are dependent on the Fforeign Performer's participation;
- (c) details of the number and description of the specific roles to be filled by Australian Performers and the positions to be filled by Australian crew, all including employment contract details; and

If production were to proceed without foreign Performer

- (d) details of the estimated production budget including estimated expenditure in Australia;
- (e) details of the number and description of the specific roles to be filled by Australian Performers and the positions to be filled by Australian crew, all including employment contract details.

Formatted: Indent: Left: 0.63 cm,
Hanging: 0.63 cm

Comment [P14]: I don't understand why this is required – suggest deleting unless there is a reason.

SECTION E - APPLICATION PROCESS

Formatted: Space After: 0 pt

1. Applications for Foreign Performer Certificates should be made by Sponsors of 420 visa applicants.
2. Applying for certification of the Foreign Performer through to the provision of the entertainment visa is a four part process as follows:
 - Contact DIAC for advice on the correct visa to apply for.
 - ~~Initial~~ If the 420 visa is suitable, contact with OFTA and MEAA to commence application process for certification under the FPCS, and consult with MEAA to obtain a letter of opinion, and in cases which involve a large number of cast and crew DIAC, to indicate the Sponsor is commencing application for a Foreign Performer Certificate;
 - ~~Consultation with MEAA to obtain a letter of opinion;~~
 - OFTA assessment and decision on application for a Foreign Performer Certificate; and
 - DIAC processing of application for the entertainment visa.
3. To allow adequate time for consideration of applications, Sponsors should commence the application process at least ~~10-12 weeks~~ prior to as early as possible before the proposed date of entry into Australia of the Foreign Performer. Processing through all stages will take at least four weeks. Processing times may be accelerated to accommodate one-off applications where the Sponsor has demonstrated a genuine need for urgency applies.

Initial contact with relevant agencies

Formatted: Space After: 0 pt

4. After contacting DIAC for advice on the correct visa to apply for, Sponsors must ~~initially~~ advise OFTA and MEAA of their intention to apply for a Foreign Performer Certificate and a 420 visa. This will provide an opportunity for information exchange and to clarify any initial questions the Sponsor may have regarding the application process including relevant application forms and MEAA consultation requirements.
5. Sponsors should provide initial e-mail advice to:
 - (a) OFTA (E-mail: foreignactors@pmc.gov.au) and
 - (b) MEAA (E-mail: imports@alliance.org.au)which sets out:
 - (a) Name and contact details of the Sponsor;
 - (b) Name of the production;
 - (c) Number and nationalities of the foreign performers for whom entry is being sought; and
 - (d) Estimated arrival and departure dates.
6. ~~Sponsors seeking to import 10 or more foreign personnel (including performers and crew) in a single application should also provide the above advice to DIAC by~~

e-mail (E-mail: entertainment.visas@immi.gov.au).

6. For full contact details offer agencies see Section G.

Consultation with MEAA to obtain letter of opinion

7. As a requirement of the Migration Regulations Sponsors ~~should~~ are required to consult with MEAA in advance of submitting their application for a Foreign Performer Certificate to OFTA. MEAA may provide a letter of opinion to the Sponsor and OFTA based on its assessment of whether the proposed foreign performer importation complies with the OFTA Guidelines ~~it~~ agrees with the importation of the Foreign Performer under the Migration Regulations.
8. MEAA is required to provide a letter of opinion to the Sponsor, with a copy provided to ~~and~~ OFTA, in relation to their application within 14 calendar days. The 14 day period commences from the date upon which all relevant documentation is submitted to MEAA for consideration ~~(see also paragraph 20 below).~~
9. MEAA requires the Sponsor to provide a range of information in order to make this assessment including the following documentation (unless otherwise agreed with MEAA):
 - (a) ~~script or synopsis;~~
 - (b) letter outlining the reasons for the proposed foreign performer import, including details of the production budget and level of Foreign Investment;
 - (c) ~~evidence of compliance with the OFTA Casting Guidelines when the basis of the application is an inability to cast the role with an Australian Performer;~~
 - (d) details of the performer's itinerary;
 - (e) foreign performer's resume; and
 - (f) ~~copy of the deal memo/contract with the foreign performer.~~
9. For further information and a comprehensive list of MEAA's requirements see: <http://www.alliance.org.au/imports>.
10. ~~Where a Sponsor approaches MEAA well in advance of submitting its application to OFTA for a Foreign Performer Certificate, MEAA may provide a letter of opinion indicating 'in principle' support for the proposed import. Where an in-principle letter has been provided, the Sponsor must nevertheless consult formally and receive a final letter of opinion.~~

Formatted: Pattern: Clear

Formatted: List Paragraph, Outline numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 6 + Alignment: Left + Aligned at: 0 cm + Tab after: 0.63 cm + Indent at: 0.63 cm

Comment [p15]: Is this necessary to detail in teh Guidelines?

Formatted: Space After: 0 pt

OFTA assessment and decision on application for Foreign Performer Certificate

Submitting an application

Formatted: Centered, Space After: 0 pt

- 11.10. The OFTA Guidelines and Foreign Performer Certificate application form are available for download from <http://www.arts.gov.au/foreignactors>.
- 12.11. Applications should contain evidence of compliance with the requirements set out in Sections C and D of the Guidelines as necessary. OFTA may also seek further information and/or statutory declarations in relation to supporting documentation provided by the Sponsor where appropriate.
- 13.12. In determining whether to issue a Foreign Performer Certificate, the Arts Minister or person authorised by the Arts Minister, will take comments provided

by MEAA into consideration. A copy of the letter of opinion from MEAA should be provided by the Sponsor as part of the application submitted to OFTA.

- 14.13. Applications should be addressed ~~and faxed~~ or emailed as follows:

Assistant Secretary
Creative Industries and Sector Development Branch Foreign Performer
Certification Scheme
Office for the Arts
; Department of the Prime Minister and Cabinet
Fax: +61 2 6275 9320
Email: foreignactors@pmc.gov.au

- 14.14. Receipt of applications will be acknowledged and all enquiries regarding the application process should be directed to the Desk Officer at the above generic email address or by phone on Tel: +61 2 6275 9680.

15. Please note that a single application form may cover a number of performers. Alternatively, applications may be made for performers in a sequence. For large productions, certification may be granted as details become available.

Formatted: Indent: Left: -0.01 cm
Space After: 0 pt

Formatted: Indent: Left: 0.63 cm

Application assessment

16. OFTA considers the circumstances of each application, taking into account the views of the Sponsor and MEAA's letter of opinion, and makes a decision based its assessment of whether the proposed Foreign Performer importation complies with the Guidelines Migration Regulations.
17. OFTA commences its assessment of an application for a Foreign Performer Certificate once the completed application form and supporting documentation (including a letter of opinion from MEAA) has been received. OFTA requires five working days to process an application once all documentation is received, and may seek further information at any point in the application assessment process in order to establish whether certification should occur.
18. Where MEAA has been consulted but has not provided a written response to the Sponsor within the required 14 day period, OFTA will seek to elicit the requested letter of opinion from MEAA. OFTA will proceed with the assessment of the application based on the information provided by the Sponsor if MEAA is unable to meet this request within a reasonable timeframe.
19. Should MEAA object to the application, OFTA will invite the Sponsor to make a written submission. This submission should address MEAA's objections and also provide any additional relevant information in support of the application. The Sponsor's submission should be provided to OFTA and copied to MEAA within three working days of OFTA's request. ~~This may be done by email or fax.~~
20. Upon receipt of the Sponsor's submission, MEAA will be invited to provide any additional comments it may wish to make in response in writing to OFTA. These comments should be provided to OFTA and copied to the Sponsor within three working days of OFTA's request. ~~This may be done by email or fax.~~
21. The Sponsor will subsequently be invited to provide any final written comments in support of the application to OFTA, again within three working days of OFTA's request.

22. Every effort will be made to come to a determination as expeditiously promptly as possible, and OFTA takes the timeframe of the production and proposed arrival date of the performer into consideration. Hence in some circumstances input from the Sponsor and MEAA may be required within a shorter timeframe than that indicated above.

Formatted: Space After: 0 pt

Decision on certification

Formatted: Centered, Space After: 0 pt

- 22.23. Upon completion of the assessment process, OFTA makes its recommendations regarding the issuing of a Foreign Performer Certificate to the Arts Minister, or person authorised by the Arts Minister, for consideration and final decision.

Formatted: Space After: 0 pt

- 23.24. OFTA will notify the Sponsor, MEAA and DIAC regarding the certification decision, and where a certificate has been issued, provide signed copies to all three parties by email (or by fax upon request). The Sponsor will also be sent the original hard copy of the certificate by regular post.

- 24.25. Please note that a Foreign Performer Certificate is valid for the entire length of the production for which it is issued. A new certificate is not required in the case of subsequent re-entry of the same Pperformer in the same production.

Formatted: Space After: 0 pt

DIAC processing of application for entertainment visa

- 25.26. DIAC requires that aApplications for entertainment visas for Fforeign Pperformers entering Australia to take part in productions covered by these GuidelinesMigration Regulations 2.72D (4) and (5) are only considered by DIAC if-supported by a Foreign Performer Certificate.

- 26.27. Sponsors should lodge their documentation with DIAC at least 8-12-weeksas soon as possible prior to the nominated person's arrival date in Australia, noting that processing times can be up to 8 to 12 weeks.

27. The Foreign Performer Certificate should be lodged by the Sponsor with DIAC to initiate processing of the visa application, together with the following documentation:

- (a) the MEAA letter of opinion;
- (b) a completed sponsorship application form (if the proposed Sponsor has not already been approved as an entertainment Sponsor. Sponsorship is valid for three years);
- (c) a completed nomination application form;
- (d) a completed entertainment visa application form; and
- (e) the separate fees/charges (if applicable) for the sponsorship, nomination and visa applications, without which an entertainment visa application will not be valid.

28. For further information and a comprehensive list of DIAC's requirements, including where applications must be lodged, see:

<http://www.immi.gov.au/skilled/specialist-entry/420>.

Formatted: English (United States)

28.

29. Sponsors should also make themselves aware of the obligations under the Entertainment visa program. More information can be found at:
<http://www.immi.gov.au/skilled/specialist-entry/420/obligations-sponsor.htm>

SECTION F - CASTING GUIDELINES

1. Where a Sponsor seeks to import a Foreign Performer on the basis that a suitable Australian Performer cannot be found, the Sponsor must demonstrate that a genuine attempt has been made to locate a suitable Australian Performer.
2. Where the Arts Minister or person authorised by the Arts Minister is not satisfied that a genuine attempt has been made, the Sponsor will need to provide documentary evidence to demonstrate to OFTA that some or all of the following have been undertaken:
 - (a) appointment of a recognised casting director in Australia;
 - (b) employment of recognised casting agents;
 - (c) appropriate advertising of the role in Australia;
 - (d) distribution of the character breakdown of the role to Performers' agents Australia-wide;
 - (e) professional auditions conducted in a conducive atmosphere where the Performer is given every opportunity to demonstrate their ability to play the nominated role including:
 - (i) providing the Performer with a detailed character breakdown of the role and excerpts from the script in sufficient time to prepare for the role;
 - (ii) informing the Performer in advance if the role requires a particular accent, skills or attributes;
 - (iii) where appropriate, giving the Performer the opportunity to discuss the role with the director; and
 - (iv) providing make-up and costumes where recommended by the casting director.
3. ~~DEHWA~~ OFTA may also require evidence to establish that where recommended by the casting director, all Performers were auditioned and, where appropriate, short-listed Performers were screen-tested.
4. Additional information regarding the Australian Performers who were considered, interviewed or auditioned for the role may be requested by OFTA as follows:
 - (a) details of the Performers offered the role and an explanation of why they were unable to accept; and
 - (b) details of the Performers considered unsuitable for the role and a statement of the reasons for the decision.
5. Please note OFTA may seek further information and/or statutory declarations in relation to supporting documentation provided by the Sponsor where appropriate.

Formatted: Indent: Left: 0.63 cm,
No bullets or numbering

Formatted: Indent: Left: 1.9 cm,
Space After: 0 pt

Comment [p16]: Is this feasible? (CF:
I wouldn't have thought so)

SECTION G - CONTACTS FOR FURTHER INFORMATION

Office for the Arts (OFTA)

Desk Officer, Foreign Performers Certification Scheme

Tel: +61 2 6275 9680

Fax: +61 2 6275 9320

Email: foreignactors@pmc.gov.au

<http://www.arts.gov.au/foreignactors>

Department of Immigration and Citizenship (DIAC)

Entertainment Processing Centre

Tel: +61 2 8861 4356 or +61 2 8861 4358

Fax: +61 2 8861 4301

Email: entertainment.visas@immi.gov.au

<http://www.immi.gov.au/skilled/specialist-entry/420>

Media, Entertainment and Arts Alliance (MEAA)

Federal Policy Officer

Tel: +61 2 9333 0958

Fax: +61 2 9333 09333

Email: imports@alliance.org.au

<http://www.alliance.org.au/imports>

**APPENDIX: MIGRATION REGULATION 2.72D, SUB-PARAGRAPHS (4)
AND (5)**

2.72D Criteria for approval of nomination — Subclass 420 (Entertainment) visa

Performing in film or television production subsidised by government

- (4) — The Minister is satisfied that:
- (a) — (a) — the identified visa holder or applicant will be:
- (i) — (i) — performing as an entertainer under a performing contract for 1 or more specific engagements (other than non-profit engagements) in Australia; and
- (ii) — (ii) — performing in a film or television production that is subsidised, in whole or in part, by a government in Australia; and
- (iii) — (iii) — performing:
- (A) — (A) — in a leading role, major supporting role or cameo role; or
- (B) — (B) — to satisfy ethnic or other special requirements; and
- (b) — (b) — the nomination is supported by a certificate given by the Arts Minister, or a person authorised by the Arts Minister, confirming that the relevant Australian content criteria have been met; and
- (c) — (c) — the entertainment sponsor holds any necessary licences in respect of the work to which the nomination relates; and
- (d) — (d) — the entertainment sponsor has consulted with relevant Australian unions in relation to the employment or engagement of the identified visa holder or applicant in Australia.

Performing in film or television production not subsidised by government

- (5) — The Minister is satisfied that:
- (a) — (a) — the identified visa holder or applicant will be:
- (i) — (i) — performing as an entertainer under a performing contract for 1 or more specific engagements (other than non-profit engagements) in Australia; and
- (ii) — (ii) — performing in a film or television production that is not subsidised in any way by a government in Australia; and
- (iii) — (iii) — performing:
- (A) — (A) — in a leading role, major supporting role or cameo role; or
- (B) — (B) — to satisfy ethnic or other special requirements; and
- (b) — (b) — the nomination is supported by a certificate given by the Arts Minister, or a person authorised by the Arts Minister, confirming that:
- (i) — (i) — citizens or residents of Australia have been afforded a reasonable opportunity to participate in all levels of the production; and

Formatted: Font: 12 pt, All caps

Formatted: Space Before: 0 pt,
After: 0 pt

Formatted: All caps

Formatted: Font: 12 pt, Bold

Formatted: Font: 12 pt, Bold

Formatted: Font: 12 pt, Bold

Formatted: Font: Bold

Formatted: Font: 12 pt, Italic

Formatted: Font: Italic

Formatted: Space Before: 0 pt,
After: 3 pt, Tab stops: 1 cm, Left +
1.75 cm, Left

Formatted: Font: 12 pt, Italic

Formatted: Font: Italic

- (ii) —the foreign investment, or the private investment guaranteed against the foreign returns by a distributor, in the production is greater than the amount to be expended on entertainers sponsored for entry; and
- (c) ———(e) —the entertainment sponsor holds any necessary licences in respect of the work to which the nomination relates; and
- (d) —the entertainment sponsor has consulted with relevant Australian unions in relation to the employment or engagement of the identified visa holder or applicant in Australia.

(d)

DRAFT



Australian Government

Department of the Prime Minister and Cabinet Office for the Arts

Ms Fiona Cameron
Chief Operating Officer
Screen Australia
GPO Box 3984
SYDNEY NSW 2001

Dear Ms Cameron *fione*

As you may be aware, a review of the Guidelines for the Foreign Actors Certification Scheme commenced in 2009. Key stakeholders were consulted on the operation of the Scheme and its Guidelines. As a result of the feedback received, the Office for the Arts has developed a revised draft version of the Guidelines.

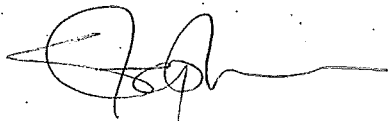
The Scheme will continue to support the Government's objectives of providing Australian performers with a fair chance of securing employment in film and television productions shot in Australia, ensuring Australian voices are heard in Australian productions, and building a commercially sustainable film and television industry.

The Guidelines have been drafted to clearly set out the different criteria for assessing the appropriateness of a Foreign Performer taking part in a specific film or television production in Australia, based on whether or not the production has or will receive a government subsidy. In particular, the Guidelines outline how different forms of government subsidy are treated. The Guidelines also outline criteria where importation of a Foreign Performer may be considered.

Your comments on the draft Guidelines, attached to this letter, are now being sought. Please provide comments to Jo Sharp, Film Policy and Incentives Section, at jo.sharp@pmc.gov.au by close of business on Friday 3 June 2011.

Before receiving your formal feedback I would also like to discuss the draft with you, either in a direct meeting or by telephone. My office will contact you shortly to arrange a suitable time.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stephen Arnott', with a long horizontal flourish extending to the right.


Stephen Arnott
Assistant Secretary
Creative Industries and Sector Development Branch
Office for the Arts
May 2011



Australian Government

Department of the Prime Minister and Cabinet Office for the Arts

Ms Debra Richards
Chief Executive Officer
Ausfilm
FSA #12, 38 Driver Ave
MOORE PARK NSW 2021

Dear Ms Richards 

As you may be aware, a review of the Guidelines for the Foreign Actors Certification Scheme commenced in 2009. Key stakeholders were consulted on the operation of the Scheme and its Guidelines. As a result of the feedback received, the Office for the Arts has developed a revised draft version of the Guidelines.

The Scheme will continue to support the Government's objectives of providing Australian performers with a fair chance of securing employment in film and television productions shot in Australia, ensuring Australian voices are heard in Australian productions, and building a commercially sustainable film and television industry.

The Guidelines have been drafted to clearly set out the different criteria for assessing the appropriateness of a Foreign Performer taking part in a specific film or television production in Australia, based on whether or not the production has or will receive a government subsidy. In particular, the Guidelines outline how different forms of government subsidy are treated. The Guidelines also outline criteria where importation of a Foreign Performer may be considered.

Your comments on the draft Guidelines, attached to this letter, are now being sought. Please provide comments to Jo Sharp, Film Policy and Incentives Section, at jo.sharp@pmc.gov.au by close of business on Friday 3 June 2011.

Before receiving your formal feedback I would also like to discuss the draft with you, either in a direct meeting or by telephone. My office will contact you shortly to arrange a suitable time.

Yours sincerely

A handwritten signature in black ink, appearing to be 'SA' with a long horizontal stroke extending to the right.

Stephen Arnott
Assistant Secretary
Creative Industries and Sector Development Branch
Office for the Arts
May 2011



Australian Government

Department of the Prime Minister and Cabinet Office for the Arts

Mr Geoff Brown
Executive Director
Screen Producers Association of Australia
34 Fitzroy Street
SURRY HILLS NSW 2010

Dear Mr *Geoff* Brown

As you may be aware, a review of the Guidelines for the Foreign Actors Certification Scheme commenced in 2009. Key stakeholders were consulted on the operation of the Scheme and its Guidelines. As a result of the feedback received, the Office for the Arts has developed a revised draft version of the Guidelines.

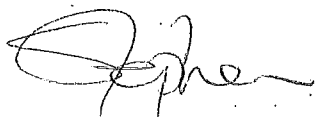
The Scheme will continue to support the Government's objectives of providing Australian performers with a fair chance of securing employment in film and television productions shot in Australia, ensuring Australian voices are heard in Australian productions, and building a commercially sustainable film and television industry.

The Guidelines have been drafted to clearly set out the different criteria for assessing the appropriateness of a Foreign Performer taking part in a specific film or television production in Australia, based on whether or not the production has or will receive a government subsidy. In particular, the Guidelines outline how different forms of government subsidy are treated. The Guidelines also outline criteria where importation of a Foreign Performer may be considered.

Your comments on the draft Guidelines, attached to this letter, are now being sought. Please provide comments to Jo Sharp, Film Policy and Incentives Section, at jo.sharp@pmc.gov.au by close of business on Friday 3 June 2011.

Before receiving your formal feedback I would also like to discuss the draft with you, either in a direct meeting or by telephone. My office will contact you shortly to arrange a suitable time.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stephen', with a stylized flourish at the end.

Stephen Arnott
Assistant Secretary
Creative Industries and Sector Development Branch
Office for the Arts
May 2011



Australian Government

**Department of the
Prime Minister and Cabinet**
Office for the Arts

Foreign Performers Certification Scheme Guidelines

Australian Government
[insert month] 2011

TABLE OF CONTENTS:

	Page
Introduction.....	2
Section A - Scope.....	3
Section B - Terms and Definitions.....	4
Section C - Treatment of Subsidised and Unsubsidised Productions.....	7
<u>Subsidised Productions</u>	7
Category 1 - Productions in receipt of a direct Government Subsidy	7
Category 2 - Productions NOT in receipt of direct Government Subsidy but eligible to access the Producer Offset.....	9
Category 3 - Productions eligible to access the Location or PDV Offsets.....	9
<u>Unsubsidised Productions</u>	9
Section D - Flexibility Circumstances and Evidence Required for Subsidised Productions ..	10
Highly specialist/unusual roles.....	10
Ethnicity.....	11
Continuity.....	11
Unexpected change in the level of Foreign Investment	11
Private investment being dependent on the engagement of Foreign Performer	11
Overall benefit to the Australian film and television industry.....	12
Section E - Application Process.....	13
Initial contact with relevant agencies	13
Consultation with MEAA	14
OFTA assessment and decision on application for Foreign Performer Certificate.....	14
Submitting an application.....	14
Application assessment	14
Decision on certification	15
DIAC processing of application for entertainment visa	15
Section F - Casting Guidelines.....	16
Section G - Contacts for Further Information.....	17
Appendix - Migration Regulation 2.72D, Sub-Paragraphs (4) and (5).....	18

INTRODUCTION

This revised version of the *Foreign Performers Certification Scheme (FPCS) Guidelines* was adopted on [?? 2011].

Purpose

The Scheme supports key Government objectives for the film and television industry including providing Australian industry personnel with a fair chance of securing employment in Film or Television Productions shot in Australia, ensuring Australian voices are heard in Australian productions, and building a commercially sustainable film and television industry.

Who needs to apply?

The Scheme deals exclusively with the employment of Foreign Performers entering Australia to take part in Film and Television Productions. The guidelines are the basis on which the Arts Minister, or a person authorised by the Arts Minister, determines whether to certify that the requirements identified in the Migration Regulations have been met. Please see Sections B, C and D for more information.

How do I apply?

The Guidelines are administered by the Office for the Arts (OFTA).

The Migration Regulations require that a subclass 420 visa, which is assessed against the criteria in sub-paragraphs 2.72D(4) and (5), not be approved unless the visa application is supported by a Foreign Performer Certificate issued by the Arts Minister. Regulation 2.72D(4) and 2.72D(5) are included as an Appendix to this document.

In addition, under the Migration Regulations the Sponsor must consult the relevant Australian unions. For the purposes of this Scheme, the relevant union is the Media Entertainment and Arts Alliance (MEAA). This consultation process is undertaken as part of the process of applying for a Foreign Performer Certificate from the Arts Minister.

More detailed information is contained in Section E.

Is there a cost when applying to OFTA?

No fee is charged by OFTA. Applicants must contact the Department of Immigration and Citizenship (DIAC) for advice on their fees.

How long does OFTA take to assess an application?

OFTA requires five working days to process an application, and may seek further information at any point in the application assessment process in order to establish whether certification should occur. Further information is included in Section E.

Applicants should contact the Department of Immigration and Citizenship for advice on their processing timeframes.

Who do I contact for more information?

Contact details for OFTA, MEAA and DIAC contact details can be found in Section G.

SECTION A – SCOPE

1. The Scheme applies to the import of Foreign Performers taking part in the following specified forms of Film or Television Production intended for distribution via platforms such as cinema exhibition, television broadcast, DVD, and Internet and mobile devices:
 - (a) Feature Films;
 - (b) Telemovies;
 - (c) Series, Serials and Sketch Comedy Programs
 - (i) excluding Foreign Performers/celebrities who take part in Film or Television Productions as themselves, when this participation is incidental to their main purpose for entering Australia (which might include live performance concert tours and other promotional activities);
 - (d) Documentaries and dramatised Documentaries
 - (i) excluding all Performers other than foreign Hosts and Foreign Performers in dramatic roles.
2. The Guidelines set out the circumstances under which applications can be considered for the import of Foreign Performers to take part in the Film or Television Productions and roles specified above.
3. The Guidelines do NOT apply to:
 - (a) Foreign Performers in roles or forms of Film or Television Production other than those specified above. Visa applications for such Performers will be considered by DIAC under the appropriate Migration Regulations; or
 - (b) Foreign Performers seeking visas to enter Australia under an agreement between Australia and another country, such as Australia's bilateral film co-production agreements. A person may lodge an application to be considered by DIAC under subclass 406 of the Migration Regulations. Screen Australia administers the Commonwealth Government's International Co-production Program and determines applications for projects to be approved as Official Co-productions.

SECTION B - TERMS AND DEFINITIONS

'Australian Content Criteria' or 'ACC' means the criteria required for Category 1, Category 2, and Category 3 Government Subsidised productions set out in Section C of these Guidelines.

'Cameo Actor Role' means a brief but important dramatic role in a Film or Television Production, usually performed by a well-known personality.

'DIAC' means the Department of Immigration and Citizenship.

'Documentary' means a program that is a creative treatment of actuality, other than a news, current affairs, sports coverage, magazine, infotainment, light entertainment or reality program.

'Feature Film' means a film, including an animated film, commonly screened as the main attraction in a commercial cinema that is no less than 60 minutes, or in the case of a larger format (IMAX) film no less than 45 minutes duration, and shot and processed to commercial standards for cinema exhibition, television broadcast or distribution via other platforms.

'Film or Television Production' means a production intended for cinema exhibition, television broadcast, or distribution via other platforms (such as DVD, and internet and mobile phone downloads) and includes a Feature Film, Telemovie, Series, Serial, Sketch Comedy Program, Documentary and dramatised Documentary but does not include computer games.

'Foreign Investment' includes overseas sourced funds where such investment is secured against returns from foreign markets, regardless of whether the funds are equity investment or not, including direct investment and revenue raised through pre-sales and distribution in overseas markets.

'Foreign Performer' means:

- (a) a Performer in a Feature Film; Telemovie; drama Series, Serial or Sketch Comedy Program; or dramatised Documentary who is performing:
 - (i) a Leading, Supporting or Cameo Actor role;
 - (ii) as a Motion-capture Performer, Puppeteer, Stunt Performer or Voice-over Performer; or
- (b) as a Host in a Documentary or dramatised Documentary.

'Government Subsidy' means and includes any form of government financial support other than developmental funding and includes:

- (a) direct subsidies such as direct investment, loans (excluding loans to cashflow the Producer Offset), distribution guarantees and pre-sales; and
- (b) indirect subsidies such as tax concessions (e.g. Producer Offset, Location Offset, Post, Digital and Visual Effects Offset in Division 376 of the *Income Tax Assessment Act 1997*).

For the purposes of this definition 'government' includes Commonwealth and Australian state and territory governments, but excludes the Australian Broadcasting Corporation and the Special Broadcasting Service.

'Host' means the central scripted Performer in a Documentary or dramatised Documentary who introduces and presents the material to a viewing audience and who may also be referred to as "compere", "presenter", "commentator" or "narrator".

'Leading Actor Role' means the dramatic role of protagonist or one of the central or main characters in a Film or Television Production.

'MEAA' means the Media Entertainment and Arts Alliance, the union representing employees in the media, entertainment, sport and the arts.

'Motion-capture Performer' means a Performer in a computer animation production in a role which involves a performance from which points can be tracked on a moving face or body in order to get a simplified image of motion., e.g. the animation of the penguins in Happy Feet.

'OFTA' means the Office for the Arts, Department of the Prime Minister and Cabinet.

'Official Co-production' means a production for which a Foreign Performer seeks to enter Australia under an agreement between Australia and another country, under the International Co-production Program administered by Screen Australia, for which visa applications are considered by the Department of Immigration and Citizenship (DIAC) under subclass 406 of the Migration Regulations.

'Puppeteer' means a manipulator of any variety of puppet, whose work appears in a Film or Television Production.

'Serial' means a Film or Television Production which is a narrative series made up of two or more episodes that:

- (a) are produced wholly or principally for public exhibition under a single title, for either free-to-air (broadcast network) and subscription television (cable or satellite); and
- (b) comprise a potentially unlimited number of episodes, relating a number of equally important and overlapping plots, without an apparent single major plot necessarily moving towards a resolution and arranged into consecutive episodes for screening purposes.

'Series' means a Film or Television Production which is a narrative series made up of two or more episodes that:

- (a) are produced wholly or principally for public exhibition under a single title, for either free-to-air (broadcast network) and subscription television (cable or satellite);
- (b) have a common theme or themes that draws the episodes of the series into a cohesive whole;

- (c) contain dramatic elements that form a narrative structure; and
- (d) are intended for exhibition together in a national market or markets.

‘Sketch Comedy Program’ means a Film or Television Production comprising comedy and satirical sketches that are short, self-contained stories or plots; but does not include a stand-up comedy program or an incidental sketch that is a component in a program of another kind.

‘Sponsor’ means an Australian producer applying for a Foreign Performer Certificate or an Australian sponsor acting on behalf of a foreign producer in making this application.

‘Stunt Performer’ means a Performer engaged to perform dangerous scenes in a Film or Television Production and/or who doubles for one of the actors chosen for a particular role.

‘Supporting Actor Role’ means a dramatic role which is more than a Cameo but not a Leading Actor role in a Film or Television Production.

‘Telemovie’ means a drama program of a like nature to a Feature Film, which is not less than 60 minutes in length and shot and processed to commercial release standards for television broadcast or distribution via other platforms (such as DVD and internet and mobile phone downloads).

‘Traditional Australian Character’ means an Australian character that appears in Australian literature (e.g. *Man from Snowy River*, *The Shiralee*, etc) or is a recognised part of Australia's history and/or folklore (e.g. Dame Nellie Melba, Ned Kelly, etc).

‘Voice-over Performer’ means a Performer who provides recorded dialogue or narration, that comes from an unseen, off-screen voice in a Film or Television Production.

SECTION C - TREATMENT OF SUBSIDISED AND UNSUBSIDISED PRODUCTIONS

In accordance with the requirements of the Migration Regulations, the Guidelines set different criteria for assessing the appropriateness of Foreign Performers taking part in a specified Film or Television Production in Australia based on whether or not the production has, or will receive, a Government Subsidy.

Subsidised Productions

1. A production is considered subsidised if it has, or will receive, a Government Subsidy.
2. For a Foreign Performer to take part in a subsidised Film or Television Production, the application for a Foreign Performer Certificate must satisfy the requirements set out in the Australian Content Criteria (ACC) detailed below.
3. The ACC requirements vary depending on whether or not the production in which the Foreign Performer is to appear:
 - (a) receives a direct Government Subsidy (Category 1); or
 - (b) is likely to access the Producer Offset and is receiving no direct Government Subsidy (Category 2); or
 - (c) is likely to access the Location or PDV Offset (Category 3).
4. Productions within all Categories must meet the Casting Guidelines, outlined in Section F.

Category 1 - ACC for Film or Television Productions in receipt of a direct Government Subsidy

5. Reasonable opportunity must be given to employing Australian Performers at all levels of the production, demonstrated by:
 - (a) the casting of Leading and major Supporting Actor Roles must accurately reflect the Australian characters portrayed;
 - (b) at least 50 per cent of Performers in Leading Actor roles and 75 per cent of Performers in major Supporting Actor Roles must be Australian; and
 - (c) where applicable, an Australian Performer must be cast to play each Traditional Australian Character.
6. The level of Foreign Investment in a production's budget will be a factor considered in assessing applications for the importation of Foreign Performers on a case by case basis. As a general guidance, the greater the Foreign Investment in the production, the greater the possible opportunity for the employment of Foreign Performers in Leading, Supporting and Cameo Actor Roles within the above parameters. For example, where a minimum of:
 - (a) 20 per cent of a production's budget is Foreign Investment and the budget in the case of a Feature Film is less than \$4.0 million, in the case of a Telemovie less than \$2.0 million, or in the case of a Series or Serial less than

\$0.75 million per commercial hour, the employment of one Foreign Performer may be appropriate;

- (b) 20 per cent of a production's budget is Foreign Investment and the budget in the case of a Feature Film is \$4.0-12.0 million, in the case of a Telemovie more than \$2.0 million, or in the case of a Series or Serial is \$0.75-1.0 million per commercial hour, the employment of one Foreign Performer in a Leading Actor Role and one Foreign Performer in a Supporting or Cameo Actor Role may be appropriate; or
 - (c) 20 per cent of a production's budget is Foreign Investment and the budget in the case of a Feature Film is more than \$12.0 million, or in the case of a Series or Serial, more than \$1.0 million per commercial hour, the employment of one additional Foreign Performer may be appropriate to play a Cameo Actor Role.
- 7. Where a Sponsor seeks to import a Foreign Performer on the basis that a suitable Australian Performer cannot be found, the Sponsor must demonstrate that a genuine attempt has been made to locate a suitable Australian Performer. OFTA Casting Guidelines are at Section F.
 - 8. When no Australian Performer can be cast to satisfy the requirements of a role, the employment of a Foreign Performer may be appropriate in the following circumstances:
 - (a) highly specialist/unusual roles
 - (b) ethnicity
 - (c) continuity
 - (d) unexpected change in the level of Foreign Investment
 - (e) private investment being dependent on the engagement of a Foreign Performer; or
 - (f) overall benefit to the Australian film and television industry.
 - 9. If a Sponsor seeks consideration on the basis of factors listed above, the Sponsor will be required to provide additional evidence in support of their application as detailed in Section D.

Category 2 - ACC for Film or Television Productions NOT in receipt of direct Government Subsidy but eligible to access the Producer Offset

10. The Sponsor must provide evidence that the production has obtained provisional certification to access the Producer Offset. Evidence must include a copy of the Provisional Certificate and covering letter from Screen Australia.

Note: Further information regarding the Producer Offset application process is available on Screen Australia's website at

http://www.screenaustralia.gov.au/producer_offset/prov_certification.asp

Productions in receipt of direct Government Subsidy in addition to accessing the Producer Offset must apply for Foreign Performers Certification under Subsidised Productions 'Category 1' above.

Category 3 - ACC for Film or Television Productions eligible to access the Location or PDV Offsets

11. The Sponsor must provide evidence that the production intends to access the Location or PDV Offsets. Evidence may include a letter of intent from the relevant production company and/or demonstration that the production budget exceeds the Location or PDV Offset eligibility criteria for minimum expenditure thresholds.

Unsubsidised Productions

12. Unsubsidised productions, including those fully funded offshore, must satisfy the following criteria:
- (a) Australian citizens/residents have been provided with a reasonable opportunity to participate in all levels of the production; and
 - (b) the sum of Foreign Investment exceeds the amount to be expended on the Foreign Performers while they are in Australia to take part in the unsubsidised production.
13. In making an application to import Foreign Performers, the Sponsor must demonstrate that reasonable efforts have been made to cast Australian Performers at all levels of the production. OFTA Casting Guidelines are at Section F.
14. In relation to Foreign Investment, the Sponsor must demonstrate that the Foreign Investment component of the production's budget is greater than the salary of the proposed Foreign Performers while they are in Australia to take part in the unsubsidised production.

SECTION D - FLEXIBILITY CIRCUMSTANCES AND EVIDENCE REQUIRED FOR SUBSIDISED PRODUCTIONS

1. Importation of a Foreign Performer may be considered in the circumstances outlined below on the basis of additional evidence provided by the Sponsor in support of the application.
2. Sponsors who intend to make an application for importation of a Foreign Performer in the circumstances outlined below must mount a convincing case supported by the documentary evidence. The simple assertion that Foreign Performer participation is critical will not be sufficient.
3. If a Sponsor believes that there are other compelling reasons to import a Foreign Performer beyond those circumstances detailed below they should contact OFTA to present a case. Such approaches will be considered on their merits on an individual basis.

Highly specialist/unusual role

4. The Foreign Performer is necessary to perform a highly specialist or unusual role which requires specific or specialist attributes including, but not limited to, physical appearance, physical talent and linguistic or vocal skills. Please note that foreign language and accent requirements* for a particular role are not necessarily sufficient grounds for importing a Foreign Performer.
5. Evidence that may be required:
 - (a) script or synopsis demonstrating that the role requires certain highly specialist attributes;
 - (b) documentation such as a listing of personal attributes or specialist skills from a resume or curriculum vitae that supports the claim that the proposed Foreign Performer possesses the attributes necessary to perform the role; and
 - (c) that all reasonable efforts have been made to cast the role with an Australian Performer (see Casting Guidelines at Section F).

* Australia is a multicultural country. Many Australian performers are competent in a variety of languages other than English, or can speak with an extensive range of accents.

Ethnicity

6. The Foreign Performer is necessary for reasons of ethnicity required by the role. Please note that foreign language and accent requirements* for a particular role are not necessarily sufficient grounds for importing a Foreign Performer.
7. Evidence that may be required:
 - (a) script or synopsis demonstrating that specific ethnic characteristics are required by the role; and
 - (b) that all reasonable efforts have been made to cast the role with an Australian Performer (see Casting Guidelines at Section F).

Continuity

8. The Foreign Performer is necessary for reasons of continuity.
9. Evidence that may be required:
 - (a) documentation, such as a Performer contract, cast list or press clippings, supporting the claim that the Foreign Performer has worked on, or will be working on, the same production outside Australia.

Unexpected change in the level of Foreign Investment

10. Where the initial level of Foreign Investment in a production's budget allows for the importation of Foreign Performers, but decreases unexpectedly, consideration will be given to approving the importation of Foreign Performers already attached to the production. For example, a foreign investor may withdraw support due to financial pressures and be replaced by an Australian investor at short notice.
11. Evidence that may be required:
 - (a) details of the production budget;
 - (b) documentation from private investors committing to the production; and
 - (c) reasons for and date of withdrawal of a foreign investor.

Private investment being dependent on the engagement of a Foreign Performer

12. The Foreign Performer is commercially necessary to secure Australian and/or Foreign Investment in the production or overseas pre-sales and distribution deals.
13. Evidence that may be required:
 - (a) details of the production budget;
 - (b) one or more of the following documents:
 - (i) letter of confirmation or contract from the production's relevant investor that finance in the production is dependent on the Foreign Performer's participation;

* Australia is a multicultural country. Many Australian performers are competent in a variety of languages other than English, or can speak with an extensive range of accents.

- (ii) letter of confirmation or contract from the production's distributor that distribution is dependent on the Foreign Performer's participation;
- (iii) contracts indicating that overseas pre-sales are dependent on the Foreign Performer's participation;
- (iv) where the Foreign Performer is internationally known, documentary proof of their box office appeal through international box office figures for Film and Television Productions in which they have undertaken Leading or major Supporting Actor Roles; and/or
- (v) where the Foreign Performer is an emerging Performer, or cast to appeal to a particular overseas audience, documentation in support of their potential box office appeal such as resume/filmography details including previous work, reviews, awards/accolades, and/or other evidence of audience appeal.

Overall benefit to the Australian film and television industry

14. The Foreign Performer is necessary to ensure that the production proceeds in Australia and the size of the production's budget is such that associated local employment opportunities constitute an overall net economic benefit for the Australian film and television industry. Net economic benefit could include employment opportunities for Australian Performers and crews, longer employment contracts as a consequence of a larger production budget and longer production schedules, and significant commercial opportunities for other film production service providers in Australia.
15. Where a Sponsor claims there is a financial imperative to engage a Foreign Performer which is not demonstrated by a higher level of Australian and/or Foreign Investment in the production budget, a detailed explanation of that financial imperative will be required.
16. Evidence that may be required to demonstrate that the scale of the production would be significantly diminished if the Foreign Performer is not attached to the production includes:
 - (a) details of the estimated production budget including estimated expenditure in Australia;
 - (b) one or more of the following documents as necessary:
 - (i) letter of confirmation from the production's relevant investor that investment in the production is dependent on the Foreign Performer's participation;
 - (ii) letter of confirmation from the production's distributor that distribution is dependent on the Foreign Performer's participation;
 - (iii) contracts indicating that overseas pre-sales are dependent on the Foreign Performer's participation;
 - (c) details of the number and description of the specific roles to be filled by Australian Performers and the positions to be filled by Australian crew, including employment contract details; and

SECTION E - APPLICATION PROCESS

1. Applications for Foreign Performer Certificates should be made by Sponsors of 420 visa applicants.
2. Applying for certification of the Foreign Performer through to the provision of the entertainment visa is a four part process as follows:
 - Contact DIAC for advice on the correct visa to apply for.
 - If the 420 visa is suitable, contact OFTA to commence application process for certification under the FPCS, and consult with MEAA to obtain a letter of opinion;
 - OFTA assessment and decision on application for a Foreign Performer Certificate; and
 - DIAC processing of application for the entertainment visa.
3. To allow adequate time for consideration of applications, Sponsors should commence the application process as early as possible before the proposed date of entry into Australia of the Foreign Performer. Processing through all stages will take at least four weeks. Processing times may be accelerated to accommodate one-off applications where the Sponsor has demonstrated a genuine need for urgency.

Initial contact with relevant agencies

4. After contacting DIAC for advice on the correct visa to apply for, Sponsors must advise OFTA and MEAA of their intention to apply for a Foreign Performer Certificate and a 420 visa. This will provide an opportunity for information exchange and to clarify any initial questions the Sponsor may have regarding the application process including relevant application forms and MEAA consultation requirements.
5. Sponsors should provide initial e-mail advice to:
 - (a) OFTA (E-mail: foreignactors@pmc.gov.au) and
 - (b) MEAA (E-mail: imports@alliance.org.au)which sets out:
 - (a) Name and contact details of the Sponsor;
 - (b) Name of the production;
 - (c) Number and nationalities of the foreign performers for whom entry is being sought; and
 - (d) Estimated arrival and departure dates.
6. For full contact details of agencies see Section G.

Consultation with MEAA

7. As a requirement of the Migration Regulations Sponsors are required to consult with MEAA in advance of submitting their application for a Foreign Performer Certificate to OFTA.
8. MEAA should respond with a letter of opinion to the Sponsor, with a copy provided to OFTA, in relation to their application within 14 calendar days. The 14 day period commences from the date upon which all relevant documentation is submitted to MEAA for consideration.

OFTA assessment and decision on application for Foreign Performer Certificate

Submitting an application

9. The OFTA Guidelines and Foreign Performer Certificate application form are available for download from <http://www.arts.gov.au/foreignactors>.
10. Applications should contain evidence of compliance with the requirements set out in Sections C and D of the Guidelines as necessary. OFTA may also seek further information and/or statutory declarations in relation to supporting documentation provided by the Sponsor where appropriate.
11. In determining whether to issue a Foreign Performer Certificate, the Arts Minister or person authorised by the Arts Minister, will take comments provided by MEAA into consideration. A copy of the letter of opinion from MEAA should be provided by the Sponsor as part of the application submitted to OFTA.
12. Applications should be addressed or emailed as follows:

Foreign Performer Certification Scheme
Office for the Arts
Department of the Prime Minister and Cabinet
Email: foreignactors@pmc.gov.au
13. Receipt of applications will be acknowledged and all enquiries regarding the application process should be directed to the Desk Officer at the above email address or by phone on +61 2 6275 9680.
14. Please note that a single application form may cover a number of performers. For large productions, certification may be granted as details become available.

Application assessment

15. OFTA considers the circumstances of each application, taking into account the views of the Sponsor and MEAA's letter of opinion, and makes a decision based on its assessment of whether the proposed Foreign Performer importation complies with the Migration Regulations (see Appendix).
16. OFTA requires five working days to process an application once all documentation is received, and may seek further information at any point in the application assessment process in order to establish whether certification should occur.

17. Where MEAA has been consulted but has not provided a written response to the Sponsor within the required 14 day period, OFTA will seek to elicit the requested letter of opinion from MEAA. OFTA will proceed with the assessment of the application based on the information provided by the Sponsor if MEAA is unable to meet this request within a reasonable timeframe.
18. Should MEAA object to the application, OFTA will seek additional details from the Sponsor and MEAA to facilitate assessment of the application. Any request for information from OFTA should be responded to within three working days.
19. Every effort will be made to come to a determination as promptly as possible, and OFTA takes the timeframe of the production and proposed arrival date of the performer into consideration. Hence in some circumstances input from the Sponsor and MEAA may be required within a shorter timeframe than that indicated above.

Decision on certification

20. Upon completion of the assessment process, OFTA makes its recommendations regarding the issuing of a Foreign Performer Certificate to the Arts Minister, or person authorised by the Arts Minister, for consideration and final decision.
21. OFTA will notify the Sponsor, MEAA and DIAC regarding the certification decision, and where a certificate has been issued, provide signed copies to all three parties by email (or by fax upon request). The Sponsor will also be sent the original hard copy of the certificate by regular post.
22. Please note that a Foreign Performer Certificate is valid for the entire length of the production for which it is issued. A new certificate is not required in the case of subsequent re-entry of the same Performer in the same production.

DIAC processing of application for entertainment visa

23. DIAC requires that applications for entertainment visas for Foreign Performers entering Australia to take part in productions covered by Migration Regulations 2.72D (4) and (5) are supported by a Foreign Performer Certificate.
24. Sponsors should lodge their documentation with DIAC as soon as possible prior to the nominated person's arrival date in Australia, noting that processing times can be up to 8 to 12 weeks.
25. For further information and a comprehensive list of DIAC's requirements, including where applications must be lodged, see:
<http://www.immi.gov.au/skilled/specialist-entry/420>

SECTION F - CASTING GUIDELINES

1. Where a Sponsor seeks to import a Foreign Performer on the basis that a suitable Australian Performer cannot be found, the Sponsor must demonstrate that a genuine attempt has been made to locate a suitable Australian Performer.
2. Where the Arts Minister or person authorised by the Arts Minister is not satisfied that a genuine attempt has been made, the Sponsor will need to provide documentary evidence to demonstrate to OFTA that some or all of the following have been undertaken:
 - (a) appointment of a recognised casting director in Australia;
 - (b) employment of recognised casting agents;
 - (c) appropriate advertising of the role in Australia;
 - (d) distribution of the character breakdown of the role to Performers' agents Australia-wide;
 - (e) professional auditions conducted in a conducive atmosphere where the Performer is given every opportunity to demonstrate their ability to play the nominated role including:
 - (i) providing the Performer with a detailed character breakdown of the role and excerpts from the script in sufficient time to prepare for the role;
 - (ii) informing the Performer in advance if the role requires a particular accent, skills or attributes;
 - (iii) where appropriate, giving the Performer the opportunity to discuss the role with the director; and
 - (iv) providing make-up and costumes where recommended by the casting director.
3. OFTA may also require evidence to establish that where recommended by the casting director, all Performers were auditioned and, where appropriate, short-listed Performers were screen-tested.
4. Additional information regarding the Australian Performers who were considered, interviewed or auditioned for the role may be requested by OFTA as follows:
 - (a) details of the Performers offered the role and an explanation of why they were unable to accept; and
 - (b) details of the Performers considered unsuitable for the role and a statement of the reasons for the decision.
5. Please note OFTA may seek further information and/or statutory declarations in relation to supporting documentation provided by the Sponsor where appropriate.

SECTION G - CONTACTS FOR FURTHER INFORMATION

Office for the Arts (OFTA)

Desk officer, Foreign Performers Certification Scheme

Tel: +61 2 6275 9680

Fax: +61 2 6275 9320

Email: foreignactors@pmc.gov.au

<http://www.arts.gov.au/foreignactors>

Department of Immigration and Citizenship (DIAC)

Entertainment Processing Centre

Tel: +61 2 8861 4356 or +61 2 8861 4358

Fax: +61 2 8861 4301

Email: entertainment.visas@immi.gov.au

<http://www.immi.gov.au/skilled/specialist-entry/420>

Media, Entertainment and Arts Alliance (MEAA)

Federal Policy Officer

Tel: +61 2 9333 0958

Fax: +61 2 9333 09333

Email: imports@alliance.org.au

<http://www.alliance.org.au/imports>

**APPENDIX: MIGRATION REGULATION 2.72D, SUB-PARAGRAPHS (4)
AND (5)**

2.72D Criteria for approval of nomination — Subclass 420 (Entertainment) visa

Performing in film or television production subsidised by government

- (4) The Minister is satisfied that:
- (a) the identified visa holder or applicant will be:
 - (i) performing as an entertainer under a performing contract for 1 or more specific engagements (other than non-profit engagements) in Australia; and
 - (ii) performing in a film or television production that is subsidised, in whole or in part, by a government in Australia; and
 - (iii) performing:
 - (A) in a leading role, major supporting role or cameo role; or
 - (B) to satisfy ethnic or other special requirements; and
 - (b) the nomination is supported by a certificate given by the Arts Minister, or a person authorised by the Arts Minister, confirming that the relevant Australian content criteria have been met; and
 - (c) the entertainment sponsor holds any necessary licences in respect of the work to which the nomination relates; and
 - (d) the entertainment sponsor has consulted with relevant Australian unions in relation to the employment or engagement of the identified visa holder or applicant in Australia.

Performing in film or television production not subsidised by government

- (5) The Minister is satisfied that:
- (a) the identified visa holder or applicant will be:
 - (i) performing as an entertainer under a performing contract for 1 or more specific engagements (other than non-profit engagements) in Australia; and
 - (ii) performing in a film or television production that is not subsidised in any way by a government in Australia; and
 - (iii) performing:
 - (A) in a leading role, major supporting role or cameo role; or
 - (B) to satisfy ethnic or other special requirements; and
 - (b) the nomination is supported by a certificate given by the Arts Minister, or a person authorised by the Arts Minister, confirming that:
 - (i) citizens or residents of Australia have been afforded a reasonable opportunity to participate in all levels of the production; and
 - (ii) the foreign investment, or the private investment guaranteed against the foreign returns by a distributor, in the production is greater than the amount to be expended on entertainers sponsored for entry; and

- (c) the entertainment sponsor holds any necessary licences in respect of the work to which the nomination relates; and
- (d) the entertainment sponsor has consulted with relevant Australian unions in relation to the employment or engagement of the identified visa holder or applicant in Australia.

DRAFT

Possible Q&A's for meeting with stakeholders:
Foreign Performers Certification Scheme Guidelines

The Foreign Performers Certification Scheme (FPCS) deals exclusively with the employment of Foreign Performers entering Australia to take part in Film and Television Productions.

The Scheme supports key Government objectives for the film and television industry, including providing Australian industry personnel with a fair chance of securing employment in Film or Television Productions shot in Australia, ensuring Australian voices are heard in Australian productions, and building a commercially sustainable film and television industry.

Q: Why are the guidelines being revised?

The guidelines have not been substantively updated since the early 1990s. The review seeks to ensure that the Guidelines are clear, transparent and take account of changes to the way in which productions are financed such as the introduction of the Producer Offset and the changing levels of foreign investment.

Q: Why do Australian Content Criteria (ACC) requirements vary between categories of subsidised productions?

A: In the new Guidelines, productions in receipt of the film tax offsets are considered subsidised productions. As a result there are now three categories of subsidised productions:

- Category 1 (Productions in receipt of direct Government Funding)
- Category 2 (Productions not in receipt of direct Government Subsidy but eligible to access the Producer Offset)
- Category 3 (Productions not in receipt of direct Government Subsidy but eligible to access the Location Offset).

The ACC requirements for Category 2 and 3 are different from those set out in Category 1. The reason for this is that both the Producer and Location Offset are government programs with specific aims and criteria relating to the promotion of Australian content and the development of the film and television industry. The ACC requirements for Category 2 and 3 have been developed in such a way to ensure FPCS does not contradict the aims and reduce the effectiveness of the Producer and Location offsets.

It should be noted that while the ACC requirements are different for Category 2 and 3, these productions are still required to follow the Casting Guidelines (outlined in the FPCS Guidelines) demonstrating that a genuine attempt has been made to locate suitable Australian performers.

Q: Why are the requirements not more stringent for unsubsidised productions?

A: FPCS prescribes more rigorous eligibility requirements for foreign actors working on a government subsidised production than a non government subsidised production. This is to ensure that productions in receipt of public funds provide significant opportunities for Australian actors to participate.

The Guidelines still require applicants for unsubsidised productions to show that reasonable opportunity has been provided to Australians to take part in all levels of the production and to verify that foreign investment is greater than the amount expended on foreign actors.

Q: Why do unsubsidised productions need to obtain Government approval although they have no Government investment?

A: While not all productions may receive government funding, the Government is still committed to providing Australian film and television personnel with a fair chance of securing employment in productions shot in Australia.

Q: Why do examples in Section C of the Guidelines show foreign investment for subsidised productions lowered from 30% to 20%?

A: OFTA recognises that changes have taken place in the market, and has provided a range of scenarios in the Guidelines that reflect the greater difficulty producers have today in securing foreign investment.

Q: Why have the Guidelines been changed to include Flexibility Circumstances?

A: The Guidelines had very limited flexibility, and although they contained a provision for 'exceptional cases' there was no stated criteria indicating how this provision was to be applied when making an assessment. This had the potential to lead to uncertainty among sponsors and inconsistent application of the provision.

While the Guidelines now specify the circumstances against which the sponsor must mount a case for the import of foreign actors, supporting the employment of Australian actors will remain the primary objective. The Scheme will also take account of the overall employment opportunities to be generated for the industry by a production.

Q: Why are the Guidelines limited to drama and documentaries (what about genres that fall outside of the scope such as television commercials, games etc?)

A: The Guidelines are in keeping with the film tax offset legislation which is limited to feature films, telemovies, miniseries, series and serials. FPCS seeks to regulate productions – such as feature films – which exhibit cultural content. Productions such as commercials, game shows and computer games fall outside the scope of FPCS because they are generally considered to be non-dramatic, commercially driven products and therefore have less emphasis on cultural content.

Q: Why do the Guidelines include documentaries?

A: The Guidelines relate only to foreign hosts and those undertaking dramatic roles in documentaries.

Q: Why don't performances that are incidental to an actor/celebrity's visit need a certificate?

A: The Department of Immigration and Citizenship has noted that it would complicate the visa process.

Q: Why is it a requirement that the applicant consult with MEAA as part of the application process for a certificate (particularly in regard to unsubsidised productions)?

A: This is a requirement that is stipulated in the Migration Regulations. OFTA considers all information it receives before making a decision and issuing a certificate.

Possible Q&As for meeting with stakeholders: FPCS Guidelines

OFTA has sought to strike a balance between the objectives of providing Australian performers with a fair chance of securing employment in film and television productions shot in Australia, ensuring Australian voices are heard in Australian productions, and building a commercially sustainable film and television industry.

Q: Why do Australian Content Criteria (ACC) requirements vary between categories of subsidised productions?

A: In the new guidelines, film tax offsets are treated as Government subsidies under Migration Regulation 2.72D.

- Under Category 2, applications relating to productions not in receipt of direct Government subsidy but eligible to access the Producer Offset must provide a Provisional Certificate and covering letter from Screen Australia. For a production to receive either a provisional or final certificate to access the Producer Offset, it must demonstrate that it has Significant Australian Content (SAC). This includes consideration of the nationality of actors taking part in the production together with other factors.
- Under Category 3, applications relating to productions which are eligible to access the Location Offset and PDV Offset are required to demonstrate that their production budget exceeds the relevant Offset eligibility criteria for minimum expenditure thresholds, and that the production has followed the Casting Guidelines. Any further constraints would likely mean that some, if not all of these productions would no longer locate to Australia as they could not attach the marquee foreign actor necessary to justify the large budget expenditure. This would be contrary to the objectives of the Location and PDV Offset and have significantly adverse consequences for the broader local industry.
- It should be noted that productions in receipt of the film tax offsets are considered subsidised productions and are required to follow Casting Guidelines (outlined in the FPCS Guidelines) and demonstrate that a genuine attempt has been made to locate suitable Australian Performers.

Q: Why are the requirements not more stringent for unsubsidised productions?

A: FPCS prescribes more rigorous eligibility requirements for foreign actors working on a government subsidised production than a non government subsidised production. This is to ensure that productions in receipt of public funds provide significant opportunities for Australian actors to participate.

The FPCS Guidelines apply to unsubsidised productions. The criteria for non-subsidised productions are set out in Migration Regulation 2.72D, and require that entry is sought to perform in leading, major supporting or cameo roles; that Australians are afforded a reasonable opportunity to participate in all levels of production; and that foreign investment is greater than the amount spent on the foreign actors seeking certification.

The Guidelines require an applicant to show that reasonable efforts have been provided to Australians to take part in all levels of the production; provide OFTA with an explanation as

to why foreign actors are required; show compliance with the casting guidelines if required by the Arts Minister or OFTA; provide evidence to OFTA verifying that foreign investment is greater than the amount expended on foreign actors; and to consult the Media Entertainment and Arts Alliance (MEAA).

There is a greater need for productions that are largely or wholly foreign financed to have a foreign actor for a number of reasons.

- Internationally recognised actors may be required to sell in overseas markets and thereby provide reassurance to investors of returns on their investment.
- International finance is often tied to the engagement of high profile foreign actors and lesser-known Australian actors may not be suitable for the roles or acceptable to financiers.
- The availability of marquee Australian actors can be limited due to a range of factors including the requirement of the proposed role and the availability and interest of the actors. Where marquee Australian actors are either not available or not considered suitable for the role, producers have indicated they want to be able to employ marquee foreign actors.

Q: Why do unsubsidised productions need to obtain Government approval although they have no Government investment?

A: While not all productions may receive government funding, the Government is still committed to providing Australian film and television personnel with a fair chance of securing employment in productions shot in Australia. The Government aims to ensure Australian voices are heard in Australian productions and seeks to build a commercially sustainable film and television industry.

Q: Why do examples in Section C of the Guidelines show foreign investment for subsidised productions lowered from 30% to 20%?

A: OFTA recognises that changes have taken place in the market, and has provided a range of examples in the Guidelines that reflect the greater difficulty producers have today in securing foreign investment.

Screen Australia data indicates average foreign investment levels over the last three years have been 38 per cent for feature films and 12 per cent for television drama productions. The level of foreign investment in feature films can vary substantially, reaching peaks in some years due to large budget film/s with US studio finance being made under Australian creative control (such as *Australia* and *Happy Feet*). Foreign investment in 2009/10 was 18 percent for feature films, but was much higher at 51 percent the previous year. When the current FACS Guidelines were developed in the 1990s, MEAA, SPAA and the Australian Government agreed that 30 percent foreign investment was a reasonable threshold for government subsidised productions. The five year average for foreign investment in Australian films (1995/96-1999/2000) was 50 percent for feature films and 20 percent for television drama.

Q: Why have the guidelines been changed to include Flexibility Circumstances?

A: The guidelines had very limited flexibility, and although they contained a provision for 'exceptional cases' there was no stated criteria indicating how this provision was to be

applied when making an assessment. This had the potential to lead to uncertainty among sponsors and inconsistent application of the provision.

The guidelines now specify the circumstances against which the sponsor must mount a case for the import of foreign actors which include:

- highly specialised/unusual role;
- ethnicity;
- continuity;
- unexpected change in the level of foreign investment;
- private investment dependant on the engagement of a foreign actor; and
- overall benefit to the Australian Film and TV industry (i.e. the likely job losses if the production does not proceed, or the scale of the production in terms of budget and associated employment opportunities).

Sponsors who intend to make an application for importation of a foreign performer on the basis of flexibility circumstances must mount a convincing case supported by documentary evidence. The simple assertion that foreign performer participation is critical will not be sufficient.

Supporting the employment of Australian actors will remain the primary objective of the guidelines, but the scheme will take account of the overall employment opportunities to be generated for the industry by a production and the extent to which production financing is dependent on the engagement of marquee foreign actors.

Q: Why are the guidelines limited to drama and documentaries (What about genres that fall outside of the scope such as Television Commercials, Games etc?)

A: The guidelines are in keeping with the film tax offset legislation which is limited to feature films, telemovies, miniseries, series and serials. Under the legislation advertising/commercials, discussion/panel programs, quiz/game shows, variety, sports/public events, training films, news/current affairs, and computer games are excluded.

OFTA would be interested in the views of the sector on the inclusion of games in the ambit of the FPCS Guidelines.

Q: Why do the guidelines include documentaries?

A: The guidelines relate only to foreign hosts and those undertaking dramatic roles in documentaries. All other roles are exempt. It should also be noted that this rule applies to reality television programs, which for the purpose of the program falls under the definition of documentary.

Q: Why don't performances that are incidental to an actor's/celebrity's visit need a certificate?

A: The Department of Immigration and Citizenship has noted that it would complicate the visa process.

Q: Why is it a requirement that the applicant consult with MEAA as part of the application process for a certificate (particularly in regard to unsubsidised productions).

A: This is a requirement that is stipulated in the Migration Regulations. OFTA considers all information it receives before making a decision and issuing a certificate.