



New Zealand Film Commission

Official Co-Productions

Guidelines for Applicants

5 August 2020

You are encouraged to read these guidelines carefully as they are intended to help you deliver the strongest application possible.

Please get in touch well before making a formal application, as NZFC staff can offer helpful advice and guidance.

Introduction

The New Zealand Film Commission (NZFC) promotes official co-productions with international treaty partners to stimulate screen production activity and provide an avenue to creative and financial partners for New Zealand producers.

These guidelines have been developed by the NZFC in its role as New Zealand’s Competent Authority to underpin its administration of the film and television co-production treaties or agreements (collectively referred to in this document as “treaty” or “treaties”). These guidelines provide general information on what is required to make an official co-production and the NZFC’s processes for assessing a co-production application. These guidelines must always be read in conjunction with the relevant treaty or treaties applicable to a project.

Co-production guidelines cannot cover every potential co-production aspect, issue or consideration. These guidelines are therefore provided as an initial reference document only and we encourage potential applicants to engage with staff directly on all project-specific queries, in the first instance via email (co-productions@nzfilm.co.nz).

The NZFC reserves the right to update or otherwise vary these guidelines from time to time. The guidelines in effect at the time a provisional or final application is received by the NZFC apply; as such, all applicants are encouraged to ensure they have the latest guidelines prior to submitting an application.

The NZFC may depart from its co-production guidelines in exceptional circumstances, but only where:

- there is a strong rationale for doing so;
- the application is compliant with the relevant co-production treaty or treaties; and
- this departure is agreed upon by both (or all) the Competent Authorities relevant to the specific co-production.

The latest version of these guidelines is always available on the NZFC website (<https://www.nzfilm.co.nz/new-zealand/about-us/what-we-do/co-productions>), or alternatively a PDF copy can be obtained by emailing co-productions@nzfilm.co.nz.

New Zealand producers are welcome to collaborate with an international producer from any country or foreign territory—including those with no existing official co-production treaties with New Zealand—without requiring approval by the NZFC. However, projects that are not structured as official co-productions may not receive the same level of financial incentives, market access and/or other forms of benefits to which official co-productions are entitled.

These guidelines relate solely to official co-productions – both film and television.

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Official Co-Productions: Key Information

What is an Official Co-Production?

Official co-productions are screen projects made in accordance with treaties between New Zealand and other countries or foreign territories.

New Zealand has co-production treaties in force with:

- [Australia \(MOU\)](#)
- [Canada](#)
- [China \(film\)](#)
- [China \(television\)](#)
- [Chinese Taipei](#)
- [Denmark](#)
- [France \(MOU\)](#)
- [Germany](#)
- [India](#)
- [Ireland](#)
- [Israel](#)
- [Italy](#)
- [Poland](#)
- [The Republic of Korea](#)
- [Singapore](#)
- [Spain](#)
- [South Africa](#)
- [United Kingdom](#)

N.B. A treaty with Brazil is currently in negotiation.

Screen projects are typically defined as narrative film, series drama, animated or factual content produced for theatrical release, televised broadcast or digital streaming. However, as each treaty was agreed at a different time, the scope of permitted activity can differ from treaty to treaty. Please refer to the relevant treaty for specific detail or contact co-productions@nzfilm.co.nz with any queries.

There are many potential benefits of official co-productions, including:

- the sharing of creative and technical resources;
- access to local and foreign incentives and subsidies;
- access to the domestic market of the other co-producer(s);
- the ability to pool financial resources;
- the ability to share the associated financial risk; and/or
- the ability to deliver projects of larger scale.

In New Zealand:

- a feature film certified as an official co-production is deemed to have significant New Zealand content for the purposes of the New Zealand Film Commission Act 1978 and New Zealand Screen Production Grant (NZSPG) Criteria for New Zealand Productions, making it eligible to apply to the NZFC for equity production finance and/or for the NZSPG 40% New Zealand Grant (assuming it meets all other relevant NZFC equity production finance and NZSPG eligibility criteria); and
- a television production certified as an official co-production is deemed to have significant New Zealand content for the purposes of the NZSPG Criteria for New Zealand Productions, making it eligible to apply for the NZSPG 40% New Zealand Grant (assuming it meets all other relevant NZSPG eligibility criteria).

N.B. As each co-production treaty is intended to benefit the economies, industry personnel, film studios and laboratories of partner countries or foreign territories, each treaty requires a ‘balance over time’ of the financial and creative participation of partner countries or foreign territories.

What is a Competent Authority?

Official co-productions are assessed and approved by government-appointed “Competent Authorities”. The NZFC is the Competent Authority for New Zealand, responsible for administering the country’s film and television co-production treaties. Each Competent Authority has its own procedures and guidelines to assess whether the terms of the treaties are satisfied. However, the NZFC must engage with its fellow Competent Authority when assessing an application under the relevant treaty, and both Competent Authorities must reach joint agreement on the decision reached, prior to notification to both (or all) of the producer applicants.

When is a Project a ‘Good Fit’ for Official Co-Production?

There are no requirements that a project be about, or set in, any particular place. Subject matter and setting are irrelevant to co-productions. However, in some cases subject matter may suggest a specific co-production approach. For example, a feature film about a New Zealand specialist medical doctor leading a joint response to a (fictional) terrorist attack in the United Kingdom could potentially make sense as a New Zealand-United Kingdom co-production.

In other cases the reason for exploring a co-production structure might be more to do with specific talent (e.g. the nationality of the writer and director), financing or market access factors (such as in the case of China, where official co-productions sit outside that country’s annual allocation for imported foreign films, as an official co-production is a local film).

Not all projects will be suited to a co-production structure. Co-production treaties impose terms and conditions on each co-producer, and these may not always be achievable or the best fit—whether creatively or otherwise—for any given project.

Please note that none of the co-producers involved in an official co-production shall be linked by common management, ownership or control, save to the extent that it is inherent in the making of the co-production itself. This means that it is not possible for producers/offices of the same company located in different countries—or different companies linked by common ownership to the same parent company—to produce projects as official co-productions. Such companies must work with third party co-producing partners in order to qualify for official co-production approval consideration.

Before embarking on a co-production, you should closely assess your reasons. Discussions with producers early in the planning stage are welcomed. Please contact the NZFC Co-Production team via email (co-productions@nzfilm.co.nz) to schedule a meeting in person or by phone.

Assessment Criteria

Applications are assessed against the relevant treaties together with these guidelines. The general principle for all official co-productions is to achieve a balance in financing, creative and expenditure contributions from each co-producing partner. The co-production project must have attached a producer from each co-producing treaty partner. Each co-producer must also bring a minimum percentage of the financial and creative contribution to the project.

In general, and unless otherwise specified in the relevant treaties, the financing, creative and expenditure elements need to be in reasonable proportion, with a minimum 20% (or maximum 80%) contribution from each co-producer of the project. Some co-production treaties specify a different minimum contribution percentage as a requirement; likewise, evidence of secured distribution commitments or other criteria may apply (e.g. as set out in the New Zealand-Canada treaty).

The percentage to be spent on New Zealand elements must be in reasonable proportion (as determined by the NZFC) to the financing raised by the New Zealand co-producer. Relevant expenditure includes:

- New Zealand cast and crew fees and related expenses (per diems, travel and accommodation) whether they are in New Zealand or not;
- New Zealand facilities and equipment costs;
- a proportion of the insurance costs, completion guarantee fee and other general expenses;
- legal costs incurred by the New Zealand co-producer; and/or
- the cost of any third country goods or services incurred by the New Zealand co-producer.

N.B. Expenditure on New Zealand elements for the purposes of a co-production is unlikely to be the same as Qualifying New Zealand Production Expenditure (QNZPE) for the purposes of the New Zealand Screen Production Grant (NZSPG).

In your co-production application you must divide the finance plan between the co-producers to determine the proportion of finance contributed by each co-producer. This division is referred to as the 'co-production split'. Once this is calculated, the co-producers can identify whether the project meets the minimum financial contribution.

The way the split is calculated is not solely at your discretion. Some aspects of a finance plan are inherently connected to the nationality of one of the co-producers, in that the financial support can only be provided by a co-producer of a given nationality. This includes:

- equity and financial support provided by national or regional screen bodies, which is considered to be contributed by the co-producer of that treaty partner territory (e.g. NZFC equity investment is automatically considered a financial contribution of the New Zealand co-producer and cannot be assigned to the other co-producer);
- tax rebates and other incentives tied to the nationality of a co-producer which must be contributions of that co-producer; and/or
- pre-sales, licence fees and distribution guarantees for each co-producer's 'home' territory, which must be contributions of that co-producer.

This means that New Zealand contributions from any of the above sources must be reflected on the New Zealand side of the 'split' (and the corresponding equivalent applies for your co-producer).

Remaining aspects of the finance plan are not considered to be automatically contributed by either co-producer, which means they should be allocated according to whichever co-producer brought that aspect of finance to the project.

In many cases, finance is jointly contributed, and producers can therefore determine the 'split' for these monies as negotiated by the co-producers and then outlined in the Co-Producers' Agreement. Contributions such as gap loans, equity from third parties, presales or distribution guarantees from other territories or an advance against 'Rest of World' sales can be attributed to either, or both, co-producers according to what works for the co-producers.

A finance plan in a provisional co-production application cannot be speculative; you must be able to document, to some extent, each aspect of the finance plan (except for contributions which are automatic, such as tax incentives).

Once the financial contributions of each co-producer are identified, you need to demonstrate that your creative contribution is reasonably equivalent to your financial contribution. The NZFC assesses the creative contribution of the New Zealand co-producer in two ways, namely the proportion of:

- New Zealand nationals in key roles through a points test; and
- expenditure on New Zealand elements.

All key creatives involved in the production must be citizens or permanent residents of New Zealand or the co-producing treaty partner territory. An individual cannot be treated as two nationalities in one application. Note also:

- producers do not attract points because there must be, by definition, at least one producer from each of the co-producing treaty partner territories credited as co-producer on the co-production project; and
- splitting of points may be approved on a case-by-case basis (e.g. where each co-producing treaty partner territory has one or more writers engaged on a series drama; or a New Zealand-China animated feature film that needs to be voiced in English and Chinese for each market).

Allocation of creative contribution between the co-producing treaty partner territories is measured through a points test. A generic assessment of the key creative roles applicable for contributing towards the points test is set out below. Some co-production treaties (e.g. the New Zealand-Canada treaty) may specify a different assessment model depending on the type of work (such as animation, documentary or fiction); or with the case of the New Zealand-Australia treaty, where a feature film or television drama co-production involves majority Australian financing, then at least one of the principal cast roles must be filled by an Australian national.

For clarity, if your film is a feature documentary, you complete the documentary points test and if your film is a feature animation, you complete the animation points test. In all cases other than where the New Zealand-Canada treaty applies, the NZFC uses a points test based upon the Screen Australia assessment model for proportion of creative contribution as outlined below.

Assessment Models: Proportion of Creative Contribution

Feature Film or TV Drama (15 points required)	<i>N.B. Allocate points to either New Zealand or co-producing country.</i>
Compulsory Points (allocate all 10 points below)	Discretionary Points (select 5 points from below)
Writer (2 points)	Composer (1 point)
Director (2 points)	Costume Designer (1 point)
DOP (1 point)	Production Designer (1 point)
Editor (1 point)	Script Editor (1 point)
Cast – 4 principal roles (4 points)	Sound Designer (1 point)
	Underlying Work (1 point)
	VFX Supervisor (1 point)
	Other senior key role specific to the film such as choreographer, special make-up design, etc. (1 point)

Documentary (10 points required)	<i>N.B. Allocate points to either New Zealand or co-producing country.</i>
Compulsory Points (allocate all 6 points below)	Discretionary Points (select 4 points from below)
Writer (2 points)	Composer (1 point)
Director (2 points)	Researcher (1 point)
DOP (1 point)	Narrator (1 point)
Editor/Picture Editor (1 point)	Sound Designer, Recordist, Sound Editor or Mixer (1 point)
	Underlying Work/Subject Matter (1 point)
	Other senior key role specific to the film such as underwater DOP, art director, VFX supervisor, etc. (1 point)

Animation (13 points required)	<i>N.B. Allocate points to either New Zealand or co-producing country.</i>
Compulsory Points (allocate all 9 points below)	Discretionary Points (select 4 points from below)
Writer (2 points)	Sound Designer (1 point)
Director/Animation Director (2 points)	Underlying Work (1 point)
Key Animator (1 point)	Key Model Designer (1 point)
Storyboard Artist (1 point)	Voice/Actors Director (1 point)
Voices – 3 principal roles (3 points)	Other senior key role specific to the film such as 3D modeller, digital composer, previs animator, etc. (1 point)

N.B. Some treaties (e.g. the New Zealand-Canada treaty) may specify a different assessment model depending on the type of work (such as animation, documentary or fiction) or with specific points allocations for certain key creative roles.

If you wish to include the 'other senior key role' as a discretionary point, you must demonstrate that the role in question is particularly important for the film. For example, if your film is a martial arts feature, it may be possible for you to allocate a point to the fight choreographer. You will need to add a brief justification statement in support of your allocation of this discretionary point in your application. The NZFC ultimately reserves the right not to accept the allocated discretionary point.

Assessment of Eligibility

Each treaty specifies that every person participating in the making of the project must be a citizen or permanent resident of one of the co-producing treaty partner territories.

Cast and crew from countries other than the co-producing treaty partner territories are referred to as 'third-party nationals'. Third-party nationals can only be involved in specified limited circumstances as outlined in the relevant treaty and with the approval of both/all Competent Authorities.

In summary, these exceptions are as follows:

- **Cast** – in exceptional circumstances, where script/treatment or financing dictates. Applicants will need to justify that the script/treatment or the financial arrangements require the third-party actor. Where the use of a third-party actor has been approved, the NZFC would also consider it reasonable that a third-party casting agent be approved.
- **Locals on Location Shoots** – if location shooting outside the co-producing treaty partner territory is approved, some specified personnel (as outlined in the relevant treaty) may be engaged in the location country; and
- **Technical Personnel** – in some treaties, technical personnel not available from the co-producing treaty partner territories may be engaged.

An executive producer on a co-production is not considered to be part of the making of the project as their role is usually financial, not creative, which means you can have third-party executive producers on your project. It is similarly possible to have third-country associate producers, assistant producers and co-producers involved in an official co-production; the key requirement is that the lead producer is from one of the co-producing countries.

It is a requirement that writers for all co-productions are nationals of the co-producing treaty partner territories, with the exception of the New Zealand-Canada treaty. This means that non-party nationals cannot be screenwriters for official co-productions. Subject to the terms of the relevant treaty and with the approval of both/all relevant Competent Authorities, a writer who is not a national of one of the co-producing treaty partner territories can contribute to the script/treatment, provided that the person is not credited as a writer of the script/treatment. The NZFC does not consider underlying works to be part of the project's production, so there is no problem with non-party nationals being credited in such a manner as 'story by' or 'based on the novel by', for example. This means that you can option a work from outside the co-producing treaty partner territories, including countries where there are no treaties with New Zealand in force.

Each treaty requires that a co-production is entirely made in the co-producing treaty partner territories. The treaties may require most of the work to take place in the majority co-producer's treaty partner territory. Co-producers may seek approval from the Competent Authorities to undertake location filming in a non-party country (for drama and documentaries). This would only be approved where the Competent Authorities were satisfied that the setting or subject matter requires the use of a specific location. This exemption does not apply to animated projects, as animations are produced in a studio and are not dependent on a physical filming location to achieve their 'on-screen setting'.

Music composition can be undertaken anywhere, but the composer must be a national of the co-producing treaty partner territories.

Several issues should be taken into account when considering the nationality of personnel:

- **Dual Citizenship** – where a person holds nationalities of both co-production treaty partner territories (i.e. dual citizenship), that person must be consistently treated as one or the other nationality but cannot be both. For example, when a writer/director is a national of both co-producing treaty partner territories, the co-producers cannot seek to have the person considered to be one nationality as the writer, and the other as the director in order to ‘balance’ the project.
- **EU Nationals** – in the case of co-productions with European Union (EU) countries, nationals of any EU country are considered to be nationals of the co-producing country. As a result, in the case of a New Zealand co-production with Denmark, France, Germany, Ireland, Italy, Poland, Spain or (currently) the United Kingdom, any EU nationals may take part in the making of the project. In light of Brexit, the NZFC encourages you to refer to the British Film Institute’s Brexit page (<https://www.bfi.org.uk/about-bfi/policy-strategy/policy-statements/brexit-answering-questions-screen-sectors>). For more information regarding British co-production policy, the NZFC recommends that your EU producer engages with their relevant European Competent Authority regarding that entity’s policy on approving UK Nationals under the specific treaty.
- **New Zealanders and Australians** – Pursuant to an agreement between Screen Australia and the NZFC, Australian citizens and permanent residents are considered to be New Zealand citizens or permanent residents (and vice-versa) for the purposes of official co-productions. This means that Australian nationals can be contracted onto any New Zealand co-production, and for the purposes of the points and spend tests, will be counted as New Zealanders. The exception to this is New Zealand-Australian co-productions. In this case, the actual citizenship or permanent residency of the participants, either New Zealand or Australian, is what is used for the points and expenditure tests.
- **Canadians** – in the case of a New Zealand co-production with Canada, one of the key positions identified for the points test may be filled by a third-party national, and in the case of a “high-budget work”, the Competent Authorities may, by mutual written consent, allow a second third-party national to fill one of those key positions. In the case of New Zealand and Canada, the NZFC and Telefilm Canada have agreed that “high-budget” means a budget of NZ\$9m or greater (in the case of a feature film). For other formats, please contact co-productions@nzfilm.co.nz.

Co-Producers’ Agreement

Each treaty specifies that the co-producers must execute a Co-Producers’ Agreement outlining the terms for the making of the co-production. The Co-Producers’ Agreement will form part of the financing documentation and, amongst other things, should specify the co-production treaty or treaties under which the project is being made. It should also reference the budget, finance plan, cash-flow schedule, control and copyright holdings, financial splits and dispute resolutions. Further,

the NZFC requires that the New Zealand co-producer must retain a share of copyright in the co-production. This refers to copyright in the finished film, not copyright in any underlying work.

Each treaty specifies a number of provisions that must be included in a Co-Producers' Agreement. You must ensure that each of these clauses is included in the Co-Producers' Agreement.

The NZFC requires specific credits to be included on the project in each co-production:

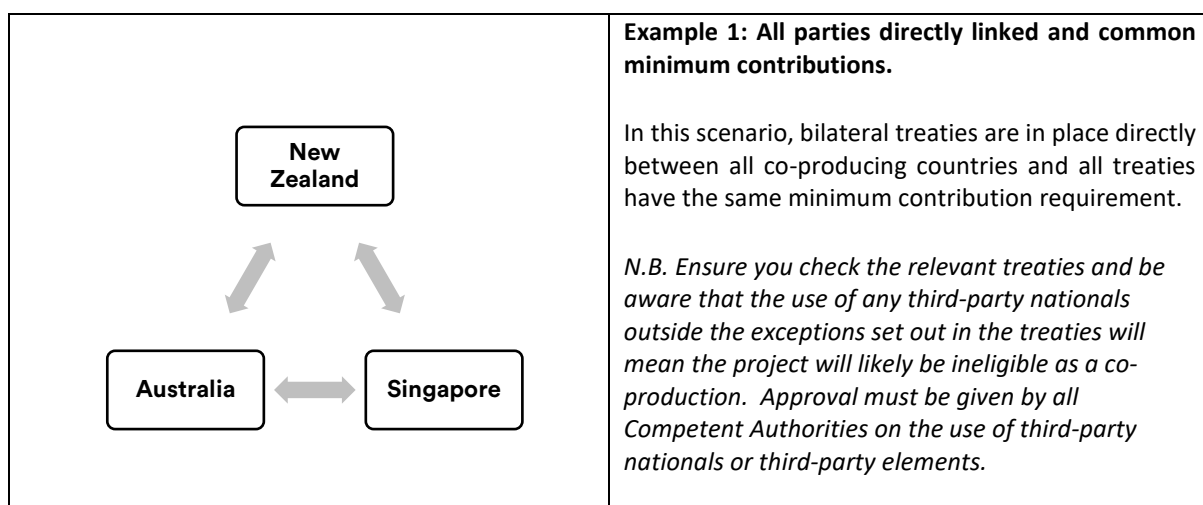
- A 'producer' or 'produced by' credit for the New Zealand co-producer (not a 'co-producer' or 'co-produced by' credit); and
- A credit in the form of 'A New Zealand-[Country] Co-Production' or similar, with the majority co-producing treaty partner territory placed first.

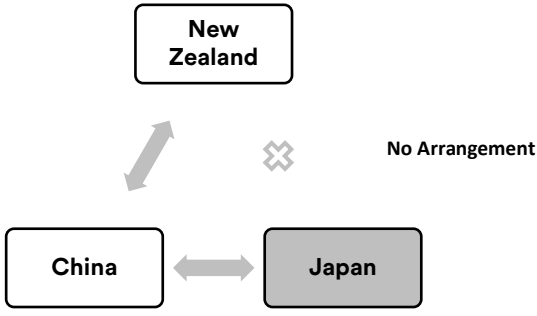
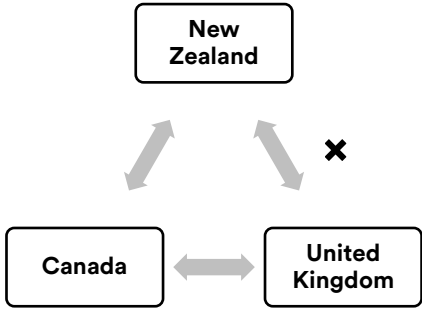
Multipartite Co-Production & Considerations on Proportion of Financial Contribution

Co-productions involving more than two countries are referred to as multipartite co-productions. You can only make a multipartite co-production where co-production treaties connect all the countries. The countries do not have to be connected directly to each other, but each must have a treaty with at least one of the other partner countries.

Three examples of feature film co-production structures (with the required minimum financial and creative contributions by each co-producer in accordance with the respective co-production treaties) follow.

Producers may also wish to consider the revised **Council of European Convention on Cinematographic Co-Production (ETS No.220)** (<https://www.coe.int/en/web/culture-and-heritage/cinematographic-coproduction>) when undertaking multipartite productions. The revised Convention governs multi-party productions with member and non-member parties. The NZFC recommends you liaise with your EU co-producers about the use of the revised Convention as they will be best placed to advise about its suitability for your project.



	<p>Example 2: Two countries linked by a third country.</p> <p>In this scenario, two of the countries are not linked by a bilateral treaty directly to each other, but both are linked to a third country (known as the ‘pivot country’). For example, New Zealand does not currently have a co-production treaty with Japan, but both Japan and New Zealand have treaties with China. China could then act as the pivot country in a co-production involving China, Japan and New Zealand. In this situation, it will be important to verify the conditions of the China-Japan treaty as well as the New Zealand-China treaty to ensure the specific terms in which a third co-producer can be involved are all met.</p>
	<p>Example 3: All parties directly linked but different minimum contributions.</p> <p>In this scenario there are bilateral treaties between all co-producing countries, but the minimum contribution requirement for each are not the same. However, because there are direct links between all three parties, it would be open to the originating producer to choose which treaties would apply, for example using only the New Zealand-Canada and Canada-United Kingdom treaties – effectively making Canada the ‘pivot country’ in a similar structure to example 2. This would be expected to be reflected in the Co-Producers’ Agreement.</p>

Applying for Approval

Application Requirements

Applications for official co-production approval must be made by the New Zealand co-producer using the relevant applicant form ([provisional](#) or [final](#)). There must be an individual applicant who must be either a New Zealand citizen or a New Zealand permanent resident. It is required that details of both the individual producer applicant and the applicant production company are provided. The applicant production company must be incorporated and carrying on business in New Zealand and have its central management and control in New Zealand. All applicants must have the capacity and resources to carry out the project that is the subject of the application.

The individual New Zealand applicant is required to have a level of experience that is commensurate with the scale of the proposed co-production project. If, for example, the project is a feature film, the individual applicant is required to have at least one feature film credit as producer on a film that involved a multi-party film production financing agreement. In other words, to have ‘closing and production experience’ in line with the proposed co-production. It is not necessary that this previous experience was specifically on a co-production, but it needs to be on a film of substantial contractual scale.

In exceptional circumstances lesser levels of experience may be accepted, but in this situation the NZFC could, at its discretion, require the attachment of an experienced New Zealand-based co-producer or executive producer to the project who would lead the project's relationship with the NZFC in regards to the co-production approval process, and would also manage the contractual closing process.

The NZFC recognises that every co-production structure and co-producer relationship is different, and as such you are encouraged to engage with NZFC staff early on in your planning to discuss the specifics of your project. While the NZFC may be willing to be flexible on a structuring aspect(s), there is no guarantee that the relevant foreign Competent Authority or Authorities will also agree to a departure from the provisions of the treaty and/or their own co-production policies and guidelines, and vice versa.

Application Process

Under each treaty, co-productions are jointly granted approval by the Competent Authorities. Approval cannot be given until both/all Competent Authorities agree that their respective application is in accordance with the relevant treaties and their policies and guidelines. The Competent Authorities will consult with each other to ensure that the parameters of the project, as outlined in their respective applications, are the same.

Each treaty specifies a number of terms which must be met. Some are absolute and inflexible, whilst others provide the Competent Authorities with a level of discretion to approve specified elements, such as whether actors from other countries can be involved, or whether you can undertake a location shoot outside the co-production countries. This discretion is very limited.

Applications to the NZFC are assessed by staff and are presented to the NZFC's Certification Committee (comprised of two Leadership Team members and one Board member) for formal approval.

There are two stages to the application process:

Provisional Application

You should submit the provisional application form when finance for the production is committed, but before pre-production starts. In addition to providing information on the financial contribution, creative contribution and expenditure splits, you are also required to provide the following documents:

- Certification of Incorporation of (New Zealand) Applicant;
- Co-Production Agreement (preferably signed by both/all co-producing parties, but not a firm requirement);
- copies of all chain of title documentation (from the acquisition of the underlying rights to the co-production agreement);
- full list of cast and crew specifying citizenship and permanent residence;
- shooting script/treatment;

- detailed individual budgets clearly detailing the expenditure in each of New Zealand and the co-production country/countries, and any third country expenditure if relevant;
- detailed finance plan, supported by letters of offer from confirmed market partners; and
- detailed production schedule.

Please allow 30 business days for your fully completed provisional application to be assessed.

Final Application

You should complete and submit the final application form once the production is completed. Documents required include:

- Certificate of Incorporation of (New Zealand) Applicant;
- Co-Production Agreement (signed);
- copies of all chain of title documentation (from the acquisition of the underlying rights to the co-production agreement);
- full list of cast and crew specifying citizenship and permanent residence;
- post-production script;
- final cost reports clearly detailing the expenditure in each of New Zealand and the co-production country/countries, and any third country expenditure if relevant; and
- if the production has not yet been released to the public in New Zealand, a DVD/Blu-ray copy or digital video file of the final production.

Please allow 30 business days for your final application to be assessed. Please note that approval on equivalent terms from the Competent Authority of **both** (in the case of a bipartite co-production) or **all** (in the case of a multipartite co-production) countries must be obtained for a production to be certified as an official co-production by the NZFC.

Completed application forms and any questions about this process or official co-production more generally, should be supplied via email to co-productions@nzfilm.co.nz.

Contact Details

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