



**PSC** mckenna  
hampton  
INSURANCE BROKERS

## **Film Insurance Profile**



Prepared by

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## FILM INSURANCE

**psc mckenna hampton insurance brokers** specialise in offering you the appropriate insurance indemnities required for your project, whether it is a small independent concept or major film feature.

We have an abundance of experience (In excess of 35 years) in arranging cover for the film industry, not just locally, but Australia wide & Overseas.

The normal procedure is that an estimate of insurance costs is provided based on your preliminary budget. Most Insurers require a General Information form to be completed & returned together with Summary Budget & Synopsis to provide terms & conditions. On larger projects fully completed proposal forms may be required. Details of any agreements you or your production people sign should be submitted as part of the proposal to ensure that the correct indemnities are available. A firm quotation is then submitted once you move into the next phase of pre-production. Remember to disclose everything you know about THE PRODUCTION so that the original proposal you sign is correct.

Although the various Underwriters do offer a very broad cover, there are major exclusions, which you must be aware of. We can discuss these and clarify where required.

The following **"DO's and DON'T's"** are important and you should always consider them prior to any shoot.

- 1) All costs for medical examinations for each person requiring cover should be met by the Production Company.
- 2) Ensure that the PRODUCER is aware of the expiry date of the FILM PRODUCERS INDEMNITY and the NEGATIVE COVER. If an extension of cover is necessary contact your Underwriter.
- 3) Any Overseas shooting must be advised prior to commencement of the shoot to guarantee indemnity under a current Public Liability cover.
- 4) Be aware of possible "close-downs" caused by Adverse Weather, particularly if your Sets are being erected or standing in the Open-Air. Policy exclusions may apply.
- 5) Each State in Australia has different legislation in respect to Workers' Compensation. Be sure that you have appropriate cover available in each State and Overseas if necessary.
- 6) Make sure you receive a clear title prior to designing your Title.
- 7) Check and test both Camera and Stock prior to Production.

Attached is an overview of the covers available under our FILM AND TV PACKAGE

## Overview

What cover is required will depend upon the type of production to be insured. Some advice on the different aspects to consider and an estimate of the likely premium can be given once a preliminary budget is available.

For smaller productions such as short films & documentaries cover is arranged on a 'Short Term' basis.

For larger productions such as Feature Films, cover is arranged on a 'Per Production' basis and in most cases cover can also be arranged on an 'Annual' basis to include multiple productions during the year.

The insurance risks involved with Film & Television Production are split into sections. These sections can be bought individually and the relevant sections will vary from one production to another.

The following summaries of the available covers are only intended to be a very basic guide to the cover they provide. For a full understanding of the cover, it is important to read the policy wording and we can provide this on request.

The various covers available are as follows:

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## 1) Film Producers Indemnity (Cast Insurance)

Some people can be very important to a production and these people can be agreed with Underwriters as 'Named Persons'.

If a Named Person suffers an Accident, Illness or even Death, during Principal Photography, this can cause significant **Financial Loss** for the Production Company.

'Financial Loss' means:

- a) Extra expenditure incurred in maintaining the Production.
- b) Extra expenditure incurred to complete the Production.
- c) Costs involved if Abandonment or Suspension is agreed with Underwriters.

The premium is principally based on the **Net Insurable Production Cost** (total costs less Post Production costs etc) at completion of Principal Photography.

The usual people insured are Principal Actors, the Director and the Producer. Accident risks are covered automatically and Illness cover is included upon receipt of a satisfactory Medical Declaration. Any costs related to medical examinations are the responsibility of the Production Company.

Pre-Production Indemnity (Cast Insurance), is similar to FPI above and protects the Production Company for incurred costs and expenses, during the Pre-Production period, where the production is geared to the availability of a contracted Director or Principal Actor(s).

## 2) Content Media – (Negative Film Risks)

This covers Accidental Physical Loss or Damage to Negatives, Videotape or digital images, which causes Extra Expenditure for the Insured in re-shooting or repairing the damaged footage.

If the Negatives are completely lost at a late stage of production this could cause a Total Loss. Usually, cover is also provided for Faulty Stock, Faulty Camera and Faulty Processing losses.

The Sum Insured is based on the Total Budget less any budgetary items which would not form part of a loss such as insurance premiums, bank interest, owned office equipment, props, set and wardrobe, story and script rights etc.

- Cover includes work prints and 'rough cuts' but excludes library stock.

### **3) Production Property**

This section provides covers for Accidental, Physical Loss or Damage to Equipment (cameras, lighting and sound) or Props, Set & Wardrobe, used in connection with a production. Cover can also include equipment such as edit suites and office equipment & computers & includes cover if insured goods are hired out.

The cover provided is on a 'Reinstatement & Replacement' basis for equipment owned, hired or leased by the Production Company.

- Action props, such as registered vehicles, may only be included if Underwriters are advised in advance, otherwise they are excluded from the Policy.
- A schedule of equipment and replacement values will normally be required.

### **4) Extra Expense**

This protects the Production Company for any additional Expenses incurred, following Physical Loss or Damage to cameras, equipment or facilities.

Extra Expense means additional costs to those budgeted, necessary to maintain production, including a move to another studio or location if agreed with Underwriters.

- The damage has to be from an external cause. Cover excludes electrical problems and other internal faults.
- If agreed with Underwriters in advance, cover can normally be extended to include these risks for an additional premium.

### **5) Public Liability**

This policy protects the Production Company (Principals, Employees, Volunteer Workers or Office Bearers) for sums, which they become legally liable to pay as compensation (excluding punitive or exemplary damages) regarding:

- a) Bodily Injury (including Death & Illness).
- b) Loss of or Damage to Property including Loss of Use.

arising out of an accident during the course of your business operations.

Cover also includes Principal's Liability where you are required to note their interest in respect of a film project.

The most common Limits required are \$ 5,000,000, \$ 10,000,000 and \$ 20,000,000. These days, local authorities usually insist on a minimum of \$ 20,000,000 Limit of Liability.

- For most Production Companies it is much more efficient to have an annual Public Liability policy as opposed to arranging separate covers for each production. This is because of the minimum premiums required to cover such large limits.
- We commonly utilize different Underwriters for Productions shot totally within Australia, than we do for other Film package covers & **can offer substantial cost reductions by doing so.**
- Productions that are shot off shore are usually placed with Underwriters that provide cover for the complete Film Package

It is very important to note that cover is usually excluded for working Contractors / Sub Contractors. As a separate legal entity, usually with their own ABN number, they should have their own Public Liability cover in force, to protect themselves for liabilities arising out of their business activities.

Also note that although Volunteers are covered for Liability arising out of their actions most insurers do not provide for personal injury they might sustain unless cover is specifically requested.

## **6) Money**

This section covers Money used in connection with a Production such as 'petty cash' on location.

- As with any insurance, it is a condition of the policy that all reasonable precautions are taken to safeguard against a loss.
- Cover excludes money used to run a business and money carried by couriers.
- In the event of a loss, the police must be notified immediately.

## **7) Workers Compensation (WA)**

Provides cover for Employers' legal liability for injury to Employees/Contractors under the WA Act benefits and at Common Law.

## **Contractors / Subcontractors**

The Workers Compensation Act requires you to insure all contractors /subcontractors who in substance provide their labour and or services for remuneration.

Contractors/Subcontractors can be sole traders or in a partnership arrangement or Pty Ltd Companies.

For Pty Ltd companies who have cover and include all employees and directors then you do not have to include their wages in your declaration. **(You must have evidence of cover by way of the contractor providing you with a certificate of currency. Please note if the director is not named on this certificate he is not covered by his own policy & therefore you must include him in your wages declaration).**

The same cannot be said for other entities (sole traders and partnerships). These contractors may have a policy to cover any employees they engage but you may be exposed to injuries to the principals. As self-employed people they cannot buy workers compensation cover for themselves and therefore their only recourse following an injury is back to you (the principal).

You can suggest that all contractors have their own Income Protection and/or Accident & Sickness cover but it will not prevent them attempting to claim Workers Compensation insurance through you.

The insurers do and will conduct audits of wages from time to time. The non-declaration of any subcontract wages would be considered non-disclosure to the insurers and the worst-case scenario other than addition premium on those wages not disclosed is a claim being refused.

## **Principals Indemnity & Contracts**

We advise that before you sign any contracts that you fully investigate any hold harmless conditions, indemnities and waivers of subrogation those contracts contain.

We suggest you seek legal advice prior to signing such contracts. Alternatively cover can be sought from an insurer for the appropriate premium consideration.

## **Injury Management**

With the changes that have taken place in the workers compensation system you will now be required to develop and implement a written injury management system and an individual return to work program for injured workers. **Please contact us if you require assistance with this.**

## **8) Errors & Omissions**

This covers the Production Company's liability for sums, which they become legally obligated to pay as Damages. These Damages may be awarded in a court of law for:

- Invasion, Infringement or Interference with Privacy or Publicity rights.
- Infringements of Copyright or Trademark.
- Libel, Slander or other forms of Defamation.
- Plagiarism, Piracy, or Unfair Competition resulting from alleged unauthorized use of Titles, Formats, Ideas, Characters, Plots, Performances or other material.
- Breach of Contract.
- Coverage is Worldwide and normally issued for an initial period of 3 years. Renewal after three years can usually be negotiated

The most common Limits required are:

- \$1,000,000 any one incident & \$3,000,000 in the aggregate in the policy period
- \$1,500,000 any one incident & \$4,500,000 in the aggregate in the policy period
- \$2,000,000 any one incident & \$6,000,000 in the aggregate in the policy period

The most common period of cover is three (3) years minimum however it is not un common for longer periods to be requested from distribution or financial interested parties.

## **9) Travel Insurance**

Policies normally provide cover for a range of events as follows and can be for a short period only or on an annual basis:

- Overseas Medical Expenses
- Ongoing Medical Expenses within Australia
- Overseas Medical Evacuation Expenses
- International Assistance
- Loss of Deposits and Additional Expenses
- Luggage
  - Personal Effects, Travel Documents Money & Credit Cards



- Specified Items: eg Laptop
- Personal Injury, Death & Capital Benefits
  - Events 1-16
- Weekly Injury Benefit per week
- Broken Bones Benefit
- Alternative Employee or Resumption of Assignment Expenses
- Political Risk & Natural Disaster Evacuation Expenses
- Missed Transport Connection
- Rental Vehicle Excess Cover
- Kidnap & Ransom & Extortion
- Personal Liability
- Extra Territorial Workers Compensation
- Corporate Travellers Family Care

Cover is mainly needed for overseas travel, however there are times when cover is essential for Travel within Australia.

We have specialist Travel Insurance Underwriters that provide terms & conditions for any production, & can include cover in places not normally available in the Australian market e.g. Middle East countries

## **10) Voluntary Workers Personal Accident**

Voluntary Workers insurance provides volunteers with Personal Accident insurance whilst they are undertaking their duties as a volunteer.

The cover available provides Death and Capital Benefits (Loss of Limbs), a Weekly Accident benefit, Non-MediCare Medical Expenses and Out-of-Pocket Expenses for non-income earners.

### **Usual Benefits provided**

- Death and Capital Benefits - up to \$100,000
- Weekly Injury - 85% of Salary up to a maximum of \$1,000 per week

- Non-Medicare Medical Expenses - up to \$2,000
- Domestic Home Help or Student Tutorial Benefits- up to \$250
- Benefit period - 104 weeks (52 weeks if over 59 years old)
- Excess - 7 days
- Aggregate Limit any one accident - \$1,000,000

Cover can be arranged for short-term projects or on an annual basis.

**Note:** Insurance cover is not a statutory requirement & may only provide a comfort for injuries sustained. As they are not receiving payment these volunteers are not covered under the WA Workers Compensation Act & Medicare would cover all medical expenses incurred arising out of an injury.

## 11) Motor Vehicle Insurance

Invariably cover is required for Motor Vehicles for Crew &/or Cast transport or Action vehicles which are hired for the production. Provides cover for damage to the insured vehicle & third party property legal liability up to \$ 20,000,000.

Cover can be arranged for short-term projects or on an annual basis within Australia only.

We trust that this information has been helpful to you.

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