



Offshore
Infrastructure
Regulator

Financial security for offshore renewables



The Offshore Infrastructure Regulator has responsibility for overseeing work health and safety, infrastructure integrity and environmental management for offshore infrastructure activities in the Commonwealth offshore area.

Financial security for licence activities

The *Offshore Electricity Infrastructure Act 2021* (OEI Act) requires all licence holders to have an approved management plan in place and to provide appropriate financial security to the Commonwealth before any offshore renewable energy infrastructure or offshore electricity transmission infrastructure can be installed.

The amount of financial security must be sufficient for the Commonwealth to pay any costs, expenses and liabilities that may arise in relation to decommissioning, removal of property, remediation of areas affected by licence activities and emergencies and unexpected circumstances.

Financial security is put in place to mitigate the risk of Australian taxpayers paying for decommissioning or other obligations in the event that the licence holder is unable or unwilling to do so.

Failing to provide the Commonwealth with the required financial security is an offence under the OEI Act.

Calculating financial security

Licence holders are required to use an appropriate method for estimating the greatest reasonably credible total amount that could be incurred by the Commonwealth.

Consideration must be given to the full scope of costs, expenses and liabilities under the OEI Act and any other requirements, such as any specific obligations under the *Environment Protection and Biodiversity Conservation Act 1999* that relate to decommissioning, removal and remediation. The calculation of financial security must be relevant to the specific activities and risks as described in the licence holder's management plan.

The calculation method may include using basic bottom-up costing, use of suitable cost estimation tools available in the public domain, or licence holders may choose to create new estimation tools independently or in cooperation with other licence holders.

For any calculation method selected, the licence holder will be required to demonstrate in the management plan that the method is suitable, robust and will result in amounts that reflect the greatest reasonably credible total amount to the Commonwealth. Complex estimation methods may require verification by an independent and competent third party.

Securities provided under the OEI framework must be comprehensive but are not required to overlap with relevant coverage imposed under other laws that may be relevant to the activities described in the management plan, such as insurance requirements for maritime activities.

Forms of financial security

Licence holders will be required to provide financial security in an acceptable form to a representative of the Commonwealth within the Department of Climate Change, Energy, the Environment and Water.

Licence holders may provide a combination of financial arrangements that add up to the total amount of financial security required. Acceptable arrangements may include:

- cash deposits paid to the Commonwealth
- cash deposits held by a financial institution
- credit facilities with financial institutions
- guarantees from a financial institution
- insurance policies with general insurers.

The Minister may make a determination about the forms of financial security that are required for a particular licence. Licence holders' financial security arrangements must comply with any such determination.

Licence holders may also propose other financial security arrangements however any security must enable the Commonwealth to recover amounts as needed.

An arrangement will not be accepted if it does not limit the ability of persons other than the Commonwealth to access the security.

Financial arrangements that are not acceptable include:

- self-insurance or
- an arrangement under which the Commonwealth is a beneficiary of a trust.

The licence holder's management plan must describe the form or combination of forms of security proposed to be provided.

Licence holders should consider whether the proposed combination of forms of security are likely to meet the Commonwealth's policy intentions regarding the type of the costs and expenses that are intended to be covered. For example, while an insurance policy may be an acceptable form of security to mitigate certain risks relating to unplanned events, it will not be an acceptable security for planned decommissioning activities.

Timetable for providing financial security

If financial security is to be required at different times due to phasing of development and construction activities for example, the management plan must include information that ensures financial security relating to particular licence infrastructure will be provided before that infrastructure is installed in the licence area.

Financial security must be maintained for the life of the licence and will be adjusted to suit the changing profile of the activities and infrastructure over time, as set out in the management plan.

Approvals

Through the management plan approval process, the OIR will consider the appropriateness of the calculation method used, the amount to be provided, the timetable against which that security will be provided, and if the proposed form or forms comply with the Regulations and any determination that may have been made by the Minister.

When the licence holder has demonstrated to the OIR, through the management plan, that the proposed arrangements will address all regulatory requirements, the OIR will advise the Commonwealth representative of the amount and form of security proposed by the licence holder.

The OIR does not have a role in receiving or holding securities or entering into agreements on behalf of the Commonwealth. The licence holder must engage with the Commonwealth representative to provide securities to the satisfaction of the representative.

Commonwealth use of financial security

If a licence holder has outstanding debts owed to the Commonwealth or OIR in relation to its licence, or fails to meet its obligations in the licence area, resulting in the Commonwealth or the OIR incurring costs, expenses and liabilities, these amounts may be recovered from financial securities.

Compensation to other parties or claims for loss or damage resulting from planned or unplanned activities of the licence holder are not able to be recovered from financial securities.

Reduction or release of financial security

Any determinations regarding the reduction or release of securities will be a matter for the Minister, informed by relevant information including advice from the OIR regarding the licence holder's compliance with requirements and obligations.



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