

Mineral and Energy Resources (Financial Provisioning) Act 2018

Financial Provisioning Scheme

FAQ: Prescribed ERC & Election Notice

Objective

The prescribed estimated rehabilitation cost (**prescribed ERC**) determines which environmental authorities (**EAs**) are risk assessed.

Prior to 1 October 2025, this was set at a minimum value of \$100,000 in ERC for individual EAs.

From 1 October 2025 it will increase to a minimum value of \$10 million.

However, EAs with an ERC of at least \$100,000 and less than \$10 million may still elect to be risk assessed if they meet the following criteria:

- For EAs with an ERC between \$100,000 and less than \$10 million and with a risk category other than High, EA holders can elect to remain in the risk assessment process.
- For EAs with an ERC between \$100,000 and less than \$10 million and with a risk category allocation of High, or where the holder opts out of the risk assessment process, holders will be required to provide surety equal to 100% of the ERC value. For EAs with a current risk category allocation of High, surety will likely be in place already. These EAs will not be required to participate in the annual review risk assessment process and therefore the EA holder will not have to pay the annual assessment fee going forward.

Commencement

From 1 October 2025, EAs with an ERC of \$10 million or more will continue to be risk assessed albeit with a change to the annual review day which will be replaced by an annual review allocation day to be determined – please refer to the *FAQ: Annual Review Allocation Day (ARAD)*.

In contrast, the holders of EAs with an ERC between \$100,000 and less than \$10 million with a risk category other than High will be sent a notice asking them to

elect whether to remain in the risk assessment process. This notice will be sent at least one month prior to when the annual review notice and questionnaire would normally be sent out, to allow for the 20- business day response period.

If an EA holder **does not** want to remain in the risk assessment process, it can respond to the notice accordingly or let the 20-business day response period expire. An invoice for the surety amount will be sent, noting that the due date for the surety to be paid is the annual review day.

If an EA holder **does** want to remain in the risk assessment process, it can respond accordingly within the 20-business day period. The Scheme Manager will then issue an election notice stating the day the notice is given, the authority to which the notice relates, and that the EA is subject to a risk category allocation under Division 1 of the Act.

The election notice has effect from the day it is given until one of the following apply:

- the ERC for the EA decreases to less than \$100,000 or increases to the prescribed ERC of \$10 million or more;
- the scheme manager makes a risk category allocation decision of High;
- the EA is surrendered; and
- the EA is either directly or indirectly transferred.

Act References

Prescribed ERC

Section 26: Risk category allocation, Initial allocation, Application of subdivision.

Section 32: Scheme manager decision on risk category allocation if changed holder.

Section 38: Annual review of risk category allocation.

Section 45: Election for risk category allocation.

Section 53: Surety, Application of subdivision.

Section 94: Allocation process not finished before the commencement.

Section 95: Changed holder review process not finished before the commencement.

Section 96: Existing changed holder review allocation not in effect before the commencement.

Section 97: Annual review process not finished before the commencement.

Section 98: Annual review allocation day for particular existing authorities.

Section 105: Option to elect before relevant anniversary day for particular existing authorities.

Section 107: Particular existing authorities if s105 stops applying because estimated rehabilitation cost equal to or more than prescribed ERC amount.

Election Notice

Section 26: Risk category allocation, Initial allocation, Application of subdivision.

Section 32: Scheme manager decision on risk category allocation if changed holder.

Section 37: When changed holder allocation takes effect.

Section 38: Annual review of risk category allocation.

Section 45: Election for risk category allocation.

Section 50A: Refund of contribution to previous holder if election notice not given to changed holder.

Section 53: Surety, Application of subdivision.

Section 99: Option to elect if allocation process not finished before commencement.

Section 100: Option to elect if changed holder review process not finished before the commencement.

Section 101: Option to elect for particular authorities if changed holder review allocation not in effect before the commencement.

Section 103: Option to elect for particular authorities if annual review process not finished before the commencement.

Section 105: Option to elect before relevant anniversary day for particular existing authorities.

Section 106: Application of new pt 3, div 1, sdiv 2 for particular authorities to which s105 applies.