

Information Sheet 2

Realising surety provided by multiple holders

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1.0 Introduction

The *Mineral and Energy Resources (Financial Provisioning) Act 2018* (**Act**) establishes a Financial Provisioning Scheme (**scheme**) to manage the financial risk to the State if environmental authority holders for resource activities do not comply with their environmental management and rehabilitation obligations.

Under the scheme, the scheme manager may require holders to provide financial provisioning by way of a contribution to the scheme fund, or by providing surety. Surety may be provided by way of a bank guarantee, insurance bond or cash – see *Scheme Manager Guideline 4 Forms of Surety* for the approved templates required for bank guarantees, insurance bonds and cash surety deeds (**surety instruments**).

The administering authority of the *Environmental Protection Act 1994* (**EP Act**) may ask the scheme manager for payment of costs and expenses by making a claim on all or part of the surety. The scheme manager must comply with the request – see Part 3 Division Subdivision 2 – Realising Surety of the Act.

This information sheet should be read in conjunction with the Act and, where relevant, other guidelines and information sheets made under the Act. Guidelines and information sheets are available on the scheme manager's website together with additional information about the scheme.

More generally, the administering authority for the EP Act makes decisions about appropriate enforcement actions which are informed by a set of enforcement guidelines, available here:

<https://environment.des.qld.gov.au/management/pdf/enforcement-guidelines.pdf>

2.0 Purpose

A single environmental authority may have multiple holders. The Act requires the scheme manager to designate one holder as the 'relevant holder'. If surety is required for the authority, it is the scheme manager's practice to invoice the relevant holder for the total amount of the surety, although all the holders remain legally liable to provide the surety.

Holders may decide to give multiple surety instruments, so that each pay what the holders agree (between themselves) is its fair share of the total surety. (For example, holders engaged in an unincorporated joint venture may wish to contribute to the surety proportionate to their interest in the joint venture.)

This information sheet explains the practice the scheme manager will typically follow when realising surety in these circumstances. However, the scheme manager is not required to follow the practice described and nothing in this information sheet limits the scheme manager's rights in relation to realising surety provided by a holder.

3.0 Claiming surety provided by multiple holders

Where there are multiple holders, the total surety may be provided to the scheme manager by each holder with a separate surety instrument. In such cases, if the scheme manager needs to meet a claim for payment from the administering authority under the EP Act, the scheme manager may claim against any or all of the surety instruments in whatever proportions the scheme manager deems appropriate.

4.0 Maximum surety reached

The fact that the maximum amount claimable under each surety instrument is reached (or cannot be claimed) does not prevent the administering authority of the EP Act pursuing alternative forms of action to secure the holders' compliance with their environmental authority.

The scheme manager may also direct the holders to replenish their surety under section 69 of the Act.

5.0 Date of effect

This information sheet takes effect from 1 October 2025.



Tim Michael

Scheme Manager

Information sheet updated

Version	Description	Date
V1	Initial information released	1 April 2019
V2	Updated for legislative changes	1 October 2025