

Information Sheet 4

Environmental authority transfer processes

Financial Provisioning Scheme

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1 Introduction

The Mineral and Energy Resources (Financial Provisioning) Act 2018 (the Act) manages the financial provisioning requirement of transfers of environmental authorities (EA) to new holder/s.

EA's with an ERC under \$100,000 require no risk category allocation, for these EA's full surety equal to 100% of the estimated rehabilitation cost (ERC) is required for financial provisioning. EA's with an ERC of \$100,000 or more are required to have a risk category allocation.

The risk category allocation is a risk assessment of the EA holder's financial soundness and the mines remaining economic life amongst other things. The risk assessment determines whether the EA is considered high risk, requiring full surety equal to 100% of the ERC or Moderate, Low, or Very Low risk requiring an annual contribution to the Scheme Fund of 2.75%, 1%, or 0.5% of the ERC respectively.

Where there is a joint venture arrangement, the provisions for a changed holder event under the Act relate to the relevant holder of an EA with a risk category allocation either, transferring their interests in the resource tenure/s or through a share transfer process the relevant holder will have a new parent entity.

2 Purpose of this information sheet

The process for transferring an EA to a new holder or parent will vary depending on whether the:

- the ERC is \$100,000 or more
- the sale is a direct transfer or resource tenure/s through an asset sale
- the sale results an indirect transfer of assets to a new parent entity through company share transfers.

This information sheet sets out the processes used in the Financial Provisioning Scheme to:

- enable a risk assessment under section 33 of the Act for proposed changes to the relevant holder of an EA
- process for a direct transfer of resource tenure/s to a new holder
- process for indirect transfer of resource tenure/s through a share transfer that results in a new parent entity of the holder of environmental authority.

3 Section 33 – For a proposed transfer (optional)

Where an EA has an existing risk category allocation, the relevant holder of an EA can request a section 33 (s33) proposed holder risk category allocation be done for either:

- a proposed new holder where there may be a direct transfer of resource tenure assets
- a proposed indirect transfer whereby the parent entity of the relevant holder may change through a share transfer.

Use the [Form FPS1](https://www.business.qld.gov.au/running-business/environment/licences-permits/rehabilitation/financial-provisioning-scheme) for requesting a s33 proposed changed holder review allocation. It can be found at the Financial Provisioning Scheme website <https://www.business.qld.gov.au/running-business/environment/licences-permits/rehabilitation/financial-provisioning-scheme> along with guidelines and information sheets on the assessment process.

The s33 risk category assessment process:

- requires an assessment fee to be paid prior to commencement of the proposed holder assessment
- may take approximately 3 months to complete the assessment
- multiple s33 proposed holder assessments can be done for an individual EA
- the risk category allocation made under section 36 (s36) of the Act is valid for six months
- if the transfer to the proposed holder occurs within six months, the s36 risk category allocation will be applied to the EA
- the transfer will be completed once the replacement provisioning (surety equal to the estimated rehabilitation cost or the required contribution has been received).

4 Direct transfer of assets (tenure sale to a new holder)

Direct transfer of tenure/s to impact the Financial Provisioning Scheme relates to the transfer of the majority interest in the resource tenure/s.

4.1 Direct transfer for an EA below \$100,000 in ERC

- The Department of Resources undertakes its process then sends a system integration message to the Department of Environment and Science.
- The Department of Environment and Science undertakes its processes then sends a system integration message to the Financial Provisioning Scheme.
- The Financial Provisioning Scheme will:
 - review the information provided by the other departments
 - process the transfer
 - raise an invoice for surety in the new holder's name for the full value of the ERC
 - once the acceptable surety has been received and processed, a system integration message is sent to the Department of Resources to notify them that the EA is provisioned and the resource tenure/s transfer can be registered and finalised.

4.2 Direct transfer for an EA with at least \$100,000 in ERC

When the transfer relates to a sole EA holder or the EA holder designated as the relevant holder under the Act, then the EA will require a new risk category allocation assessment to be done.

- The Department of Resources undertakes its process then sends a system integration message to the Department of Environment and Science.
- The Department of Environment and Science undertakes its processes then sends a system integration to the Financial Provisioning Scheme.
- The Financial Provisioning Scheme will:
 - review the information provided by the other departments
 - check if a s33 assessment has been done for the new holder and if the s36 risk category allocation is within the six-month period - if so, apply that allocation and raise the relevant invoice without an assessment fee (as that has been prepaid)
 - if no s33 process has been done, contact the new holder to determine the transfer timeframes and offer the option of:
 - i. up front invoicing for provision of surety equal to the ERC value – no assessment fee
 - on receipt of the acceptable surety, a system integration message will be sent to the Department of Resources to inform them the EA is provisioned and the resource tenure/s transfer can be registered and finalised
 - the Financial Provisioning Scheme will then commence the assessment process – may take about 3 months, the assessment fee will be charged at the end of this process and if the risk category allocation is Very Low, Low or Moderate, a contribution may be required at this time to replace the surety
 - ii. if there is no urgency in the transfer, the risk category assessment can occur and the relevant surety or contribution invoice with assessment fee will be raised
 - on receipt of the acceptable surety or contribution and the assessment fee, the system will send a system integration message to the Department of Resources to inform them that the EA is provisioned and the resource tenure/s transfer can be registered and finalised.

5 Indirect tenure transfer through a shareholding transfer

In an indirect transfer, the legal entity holding the EA or small scale mining permit remains the same, however, the parent entity changes.

5.1 Indirect transfer for an EA below \$100,000 in ERC

The Financial Provisioning Scheme can support the commercial arrangements agreed by the parties to the sale by working with the parties to swap out the surety provided by the vendors to that provided under the acquiring parent entity's financial arrangements. Note, the new surety must be received before the vendors surety will be released.

5.2 Indirect transfer for an EA with at least \$100,000 in ERC

An indirect transfer is where the relevant holder for an EA that has a risk category allocation triggers a changed holder event under the Act and the EA will require a risk category allocation assessment to be undertaken to reflect the changed risk to the State.

The relevant holder of the EA must complete Form FPS2 to notify the Financial Provisioning Scheme that the share transfer has been completed, even if a section 33 assessment has been done.

On receipt of the Form FPS2, Financial Provisioning Scheme will:

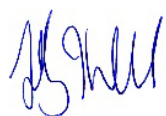
- check if an s33 assessment has been done for the new holder and if the s36 risk category allocation is within the six-month period – if so, apply that allocation and raise the relevant invoice – without an assessment fee (as that has been prepaid)
- if no section 33 assessment has been done contact the new holder to determine the transfer timeframes and offer the option of:
 - i. up front invoicing for provision of surety equal to the ERC value – no assessment fee
 - on receipt of the acceptable surety, a system integration message will be sent to the Department of Resources to inform them the EA is provisioned and the resource tenure/s transfer can be registered and finalised
 - the Financial Provisioning Scheme will then commence the assessment process – may take about 3-4 months, the assessment fee will be charged at the end of this process and if the risk category allocation is Very Low, Low or Moderate, a contribution may be required at this time to replace the surety
 - ii. the risk category allocation will commence and the new risk category will be applied at the end of the process.

6 General information

Information on the risk category allocation process and acceptable forms of surety can be found at the website <https://www.business.qld.gov.au/running-business/environment/licences-permits/rehabilitation/financial-provisioning-scheme> or call the Financial Provisioning Scheme on 3035 3551.

7 Date of effect

This information sheet takes effect from 20 September 2023.



Tim Michael
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