

Information Sheet 3

Financial institution paying out a surety instrument

Financial Provisioning Scheme



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1 Introduction

The *Mineral and Energy Resources (Financial Provisioning) Act 2018* (**MERFP Act**) establishes a Financial Provisioning Scheme (**scheme**) to manage the financial risk to the State if environmental authority holders for resource activities (**holders**) 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* (**Guideline 4**) for the approved template required for bank guarantees and insurance bonds (**financial institution undertaking**).

2 Purpose

Clause 7 of the financial institution undertaking template allows a financial institution to, at any time without being required to do so, pay to the State the maximum amount, or a lesser sum, due under the financial institution undertaking.

This information sheet sets out how the State will hold money received from a financial institution exercising its rights under clause 7 of the template.

3 Payments received under clause 7 of the financial institution undertaking

Any amounts received by the State from a financial institution exercising its rights under clause 7 of the financial institution template will be held by the State as cash surety under the MERFP Act in respect of the environmental authority. After receipt of the cash surety from the bank, the scheme manager may require a cash surety deed to be executed by the holder – see Guideline 4.

If a holder wishes to replace the cash surety with another financial institution undertaking, the holder may ask the scheme manager in accordance with section 58 of the MERFP Act.

Where a lesser sum is provided in cash, the financial institution will be required to provide a new financial institution undertaking for the remaining amount. This will ensure the total value of the surety is maintained in accordance with the original deed.