

EXPOSURE DRAFT



EXPOSURE DRAFT (07/03/2022)

Offshore Electricity Infrastructure Regulations 2022

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2022

David Hurley
Governor-General

By His Excellency's Command

Tim Wilson [**DRAFT ONLY—NOT FOR SIGNATURE**]
Assistant Minister to the Minister for Industry, Energy and Emissions Reduction
Parliamentary Secretary to the Minister for Industry, Energy and Emissions Reduction

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Part 1—Preliminary

5 Name

This instrument is the *Offshore Electricity Infrastructure Regulations 2022*.

10 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
|---------------------------------|---|--------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The later of: (a) the start of the day after this instrument is registered; and (b) the commencement of the <i>Offshore Electricity Infrastructure Act 2021</i> . | |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

15 Authority

This instrument is made under the *Offshore Electricity Infrastructure Act 2021*.

20 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) eligible person;
- (b) licence;
- (c) Registrar;
- (d) Regulator.

In this instrument:

Act means the *Offshore Electricity Infrastructure Act 2021*.

assessment fee: see subsection 205(2).

decision maker: see subsection 180(2).

licence application means an application for, or that relates to, a licence.

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Part 1 Preliminary

Section 20

offshore electricity infrastructure levy has the same meaning as in the *Offshore Electricity Infrastructure (Regulatory Levies) Act 2021*.

Part 2—The licensing scheme

Division 1—Operation of this Part

25 Operation of this Part

For the purposes of section 29 of the Act, this Part prescribes the licensing scheme.

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Part 2 The licensing scheme

Division 2 Licence areas

Section 30

Division 2—Licence areas

30 Operation of this Division

For the purposes of paragraph 29(1)(f) of the Act, this Division prescribes licence areas.

35 Licence areas

Feasibility licences

- (1) The maximum area for a feasibility licence is 700 km².

Note: See paragraph 33(4)(c) of the Act.

Commercial licences

- (2) The maximum area for a commercial licence is 700 km².

Note: See paragraph 42(4)(c) of the Act.

Division 3—Applications for licences

Subdivision A—Operation of this Division

40 Operation of this Division

For the purposes of paragraph 29(1)(a) of the Act, this Subdivision prescribes matters relating to applications for licences.

Subdivision B—Applications for feasibility licences

45 Invitations to apply for feasibility licences

- (1) The Minister may invite eligible persons to apply for a feasibility licence.
- (2) The invitation must be:
 - (a) in writing; and
 - (b) registered on the Federal Register of Legislation as a notifiable instrument.
- (3) The invitation must:
 - (a) identify the declared areas for which licences may be granted; and
 - (b) specify any conditions that the declaration requires licences granted in the declared area to be subject to.

Note: The licence will also be subject to other conditions: see section 35 of the Act.

- (4) The invitation may specify:
 - (a) the day by which the application must be made; and
 - (b) the method by which the application must be made.
- (5) The invitation may specify other requirements to be addressed by the application.

50 Applications for feasibility licences

- (1) If the Minister has invited applications for a feasibility licence, an eligible person may apply for a licence.
- (2) The application must:
 - (a) be made in the manner and form that is:
 - (i) approved by the Registrar; and
 - (ii) published on the Registrar's website; and
 - (b) include evidence of payment of the application fee; and
 - (c) be made by the day (if any) specified in the invitation; and
 - (d) describe the proposed commercial offshore infrastructure project to be assessed under the feasibility licence; and
 - (e) be accompanied by any other information or documents required by the approved form; and
 - (f) address any other requirements specified in the invitation to apply for the licence.

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Part 2 The licensing scheme

Division 3 Applications for licences

Section 55

55 Applications for licences that cover the same area

- (1) This section applies if:
 - (a) applications for feasibility licences cover wholly or partly the same area; and
 - (b) the Minister considers the applications to be of equal merit.

Invitation to revise applications

- (2) The Registrar may notify the applicants of the overlap and invite the applicants to revise their applications to remove the overlap.
- (3) The notice and invitation must:
 - (a) be in writing; and
 - (b) describe the area or areas of overlap; and
 - (c) specify the day by which an application, as revised, must be resubmitted.
- (4) An applicant who revises an application in response to the invitation is not required to pay any additional fee for revising or resubmitting the application.

Financial offers for feasibility licences

- (5) If, after inviting the applicants to revise their applications, the applications still cover wholly or partly the same area, the Minister may, in writing, invite the applicants to submit financial offers in relation to their applications.
- (6) The invitation to submit financial offers must state the following:
 - (a) that an offer should reflect the value of the project concerned;
 - (b) that the Minister will take the offers into account in deciding the applications;
 - (c) that the licence applied for will not be granted unless the amount of the financial offer is paid to the Commonwealth.
- (7) The invitation to submit financial offers:
 - (a) must:
 - (i) include information on how the offers are to be made; and
 - (ii) specify the day by which the offers must be made; and
 - (iii) require the applicants to substantiate their ability to pay amounts offered; and
 - (b) may specify other requirements to be addressed in the submission of the financial offer.
- (8) A financial offer in relation to an application for a feasibility licence must:
 - (a) be made in writing to the Registrar; and
 - (b) address any other requirements specified in the invitation to submit the financial offer.

Subdivision C—Applications for other licences

60 Commercial licences

- (1) An eligible person that holds a feasibility licence may apply for a commercial licence.
- (2) The application must:
 - (a) be made in the manner and form that is:
 - (i) approved by the Registrar; and
 - (ii) published on the Registrar's website; and
 - (b) include evidence of payment of the application fee; and
 - (c) describe the offshore infrastructure project to be carried out under the commercial licence; and
 - (d) include evidence that the Regulator has approved, under the licensing scheme, a management plan for the commercial licence; and
 - (e) be accompanied by any other information or documents required by the approved form.

65 Research and demonstration licences

- (1) An eligible person may apply for a research and demonstration licence.
- (2) The application must:
 - (a) be made in the manner and form that is:
 - (i) approved by the Registrar; and
 - (ii) published on the Registrar's website; and
 - (b) include evidence of payment of the application fee; and
 - (c) describe the offshore infrastructure project to be carried out under the research and demonstration licence; and
 - (d) be accompanied by any other information or documents required by the approved form.

Applications for licences that cover the same area

- (3) If applications for research and demonstration licences cover wholly or partly the same area, the Registrar may notify the applicants of the overlap and invite the applicants to revise their applications to remove the overlap.
- (4) The notice and invitation must:
 - (a) be in writing; and
 - (b) describe the area or areas of overlap; and
 - (c) specify the day by which an application, as revised, must be resubmitted.
- (5) An applicant who revises an application in response to the invitation is not required to pay any additional fee for revising or resubmitting the application.

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Part 2 The licensing scheme

Division 3 Applications for licences

Section 70

Applications for licences that cover existing licence areas

- (6) If an application for a research and demonstration licence covers an area that is covered by an existing licence, the Registrar may invite the holder of the existing licence to make a submission in relation to the grant of the research and demonstration licence.

70 Transmission and infrastructure licences

- (1) An eligible person may apply for a transmission and infrastructure licence.
- (2) The application must:
 - (a) be made in the manner and form that is:
 - (i) approved by the Registrar; and
 - (ii) published on the Registrar's website; and
 - (b) include evidence of payment of the application fee; and
 - (c) describe the offshore infrastructure project to be carried out under the transmission and infrastructure licence; and
 - (d) be accompanied by any other information or documents required by the approved form.

Applications for licences that cover the same area

- (3) If applications for transmission and infrastructure licences cover wholly or partly the same area, the Registrar may notify the applicants of the overlap and invite the applicants to revise their applications to remove the overlap.
- (4) The notice and invitation must:
 - (a) be in writing; and
 - (b) describe the area or areas of overlap; and
 - (c) specify the day by which an application, as revised, must be resubmitted.
- (5) An applicant who revises an application in response to the invitation is not required to pay any additional fee for revising or resubmitting the application.

Applications for licences that cover existing licence areas

- (6) If an application for a transmission and infrastructure licence covers an area that is covered by an existing licence, the Registrar may invite the holder of the existing licence to make a submission in relation to the grant of the transmission and infrastructure licence.

Division 4—Offering and granting of licences

Subdivision A—Operation of this Division

75 Operation of this Division

For the purposes of paragraph 29(1)(b) of the Act, this Division prescribes matters relating to the offering and granting of licences.

Subdivision B—Considering applications

80 Additional merit criteria—national interest

For the purposes of being satisfied that a licence meets the merit criteria, the Minister must be satisfied that the offshore infrastructure project (or proposed offshore infrastructure project) is in the national interest.

85 Merit criteria—matters to be considered

Technical and financial capability

- (1) For the purposes of being satisfied that an eligible person is likely to have, or be able to arrange to have, the technical and financial capability to carry out an offshore infrastructure project (or proposed offshore infrastructure project) under a licence, the Minister may consider one or more of the following:
 - (a) the technical advice that is or will be available to the person;
 - (b) the financial resources that are or will be available to the person;
 - (c) the person's ability to carry out the operations and works that will be authorised by the licence;
 - (d) the person's ability to discharge the obligations in relation to the licence that will be imposed by the Act, these regulations or any other instrument made under the Act;
 - (e) any other matters the Minister considers relevant.

Viability

- (2) For the purposes of being satisfied that an offshore infrastructure project (or proposed offshore infrastructure project) is likely to be viable, the Minister may consider one or more of the following:
 - (a) the complexity of the project;
 - (b) the route-to-market for the project;
 - (c) the estimated commercial return to the licence holder;
 - (d) any other matters the Minister considers relevant.

Suitability of the applicant

- (3) For the purposes of being satisfied that an eligible person is suitable to hold a licence, the Minister may consider one or more of the following:

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Part 2 The licensing scheme

Division 4 Offering and granting of licences

Section 90

- (a) the person's past performance in offshore infrastructure projects in Australia or internationally;
- (b) the person's corporate governance structure;
- (c) any other matters the Minister considers relevant.

National interest

- (4) For the purposes of being satisfied that an offshore infrastructure project (or proposed offshore infrastructure project) is in the national interest, the Minister may consider one or more of the following:
 - (a) the impact and contribution of the project to the economy and the community;
 - (b) national security;
 - (c) the complexity of the project;
 - (d) conflicts that might arise with other uses or users of the licence area;
 - (e) any measures that are proposed to mitigate such conflicts;
 - (f) any other matters the Minister considers relevant.

Note: In considering a licence application, the Minister must have regard to any information, assessment, analysis, report, advice or recommendation in relation to the application given to the Minister by the Registrar: see section 175.

90 Financial offers—feasibility licences

In considering an application for a feasibility licence, the Minister must take into account any financial offers given in relation to the application.

Subdivision C—Offering and granting licences

95 Offer of licence

- (1) If the Minister decides to grant a licence to an applicant, the Minister must offer the licence to the applicant.
- (2) The offer may be given to the applicant by the Registrar.
- (3) The offer must:
 - (a) be in writing; and
 - (b) specify the licence area for the licence; and
 - (c) state the day on which the licence would come into force; and
 - (d) state the end day of the licence; and
 - (e) specify the conditions that would apply to the licence, including the requirement to pay any offshore electricity infrastructure levy; and
 - (f) for a feasibility licence—specify the day by which amounts of the financial offer (if any) must be paid to the Commonwealth if the offer of the licence is accepted by the applicant; and
 - (g) specify the day by which the offer must be accepted; and
 - (h) state that, if the offer is not accepted by that day, that the applicant's application for the licence will lapse; and

- (i) specify the method for accepting the offer, which may include giving the acceptance or other information to the Registrar.

100 Granting licences

- (1) This section applies if the Minister grants a licence to an applicant.
- (2) The licence must not differ from the offer for the licence (see section 95) unless the applicant has agreed to the differences in writing.
- (3) Notice of the grant may be given to the applicant by the Registrar.

Note 1: The grant of a licence must be recorded in the Register: see section 163 of the Act.

Note 2: For other rules relating to grants of licences, see the following sections of the Act:

- (a) section 33 (grant of a feasibility licence);
- (b) section 42 (grant of a commercial licence);
- (c) section 52 (grant of a research and demonstration licence);
- (d) section 61 (grant of a transmission and infrastructure licence).

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Part 2 The licensing scheme

Division 5 Extending and varying licences

Section 105

Division 5—Extending and varying licences

105 Operation of this Division

For the purposes of paragraph 29(1)(f) of the Act, this Division prescribes matters relating to extending and varying licences.

110 Extending the term of a licence

On application

- (1) The Minister may extend the end day of a licence if the licence holder applies for the extension.
- (2) The application must:
 - (a) be made in the manner and form that is:
 - (i) approved by the Registrar; and
 - (ii) published on the Registrar's website; and
 - (b) be made:
 - (i) for a licence other than a commercial licence—before the end day of the licence; and
 - (ii) for a commercial licence—at least 5 years before the end day of the licence; and
 - (c) include evidence of payment of the application fee; and
 - (d) be accompanied by any other information or documents required by the approved form.

On Minister's own initiative

- (3) The Minister may extend the end day of a feasibility licence or a research and demonstration licence on the Minister's own initiative.

Notice of extension

- (4) If the Minister extends the end day of a licence, the licence holder must be given written notice of the extension.
- (5) Notice of the extension may be given to the licence holder by the Registrar.

Note 1: The extension must be recorded in the Register: see item 7 of the table in subsection 164(1) of the Act.

Note 2: For other rules relating to extending the term of a licence, see the following sections of the Act:

- (a) section 37 (extending the term of a feasibility licence);
- (b) section 47 (extending the term of a commercial licence);
- (c) section 56 (extending the term of a research and demonstration licence);
- (d) section 65 (extending the term of a transmission and infrastructure licence).

115 Application to vary a licence

- (1) An application to vary a licence must:
 - (a) be made in the manner and form that is:
 - (i) approved by the Registrar; and
 - (ii) published on the Registrar's website; and
 - (b) include evidence of payment of the application fee; and
 - (c) be accompanied by any other information or documents required by the approved form.

Notice of variation

- (2) If the Minister varies a licence, the licence holder must be given written notice of the variation.
- (3) Notice of the variation may be given to the licence holder by the Registrar.

Note 1: The variation of a licence must be recorded in the Register: see item 1 of the table in subsection 164(1) of the Act.

Note 2: For other rules relating to varying licences, see the following sections of the Act:

- (a) section 38 (varying a feasibility licence);
- (b) section 48 (varying a commercial licence);
- (c) section 57 (varying a research and demonstration licence);
- (d) section 66 (varying a transmission and infrastructure licence).

Division 6—Licence conditions

120 Operation of this Division

For the purposes of paragraph 29(1)(f) of the Act, this Division prescribes conditions to which licences are subject.

125 Reports

- (1) A licence is subject to the condition that the licence holder give the Registrar reports in accordance with this section.

Annual reports

- (2) The licence holder must give the Registrar annual reports.
- (3) An annual report must:
- (a) be in writing; and
 - (b) be given to the Registrar within 30 days after the most recent anniversary of the grant of the licence (or such further period as allowed by the Registrar); and
 - (c) relate to the activities of the licensee during the 12-month period (the ***reporting period***) immediately before the anniversary.
- (4) An annual report must include the following:
- (a) a description of all work, evaluations and studies carried out in or in relation to the licence area during the reporting period with total expenditure by item and a summary of the results;
 - (b) details of how the licence holder has continued to meet, and continues to meet, the merit criteria for the licence;
 - (c) a summary of anticipated or expected work, evaluations and studies to be carried out in the licence area during the next year of the licence, including estimated expenditure;
 - (d) any other information relating to a condition of the licence;
 - (e) any other information that the licensee believes is relevant to the licence.

Final reports

- (5) The licence holder must give the Registrar a final report if the licence term ends on a day that is not an anniversary of the grant of the licence.
- (6) A final report must:
- (a) be in writing; and
 - (b) be given to the Registrar within 30 days after the end of the licence term; and
 - (c) relate to the activities of the licensee during the period (the ***reporting period***) that:
 - (i) begins on the most recent anniversary of the grant of the licence; and
 - (ii) ends at the end of the licence term.

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Licence conditions **Division 6**

Section 125

- (7) A final report must include the information covered by paragraphs (4)(a) to (e).

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Part 2 The licensing scheme
Division 7 Transferring licences

Section 130

Division 7—Transferring licences

130 Operation of this Division

For the purposes of paragraph 29(1)(c) of the Act, this Division prescribes matters relating to transfers of licences.

135 Application to transfer a licence

An application to transfer a licence must:

- (a) be made in the manner and form that is:
 - (i) approved by the Registrar; and
 - (ii) published on the Registrar's website; and
- (b) include evidence of payment of the application fee; and
- (c) be accompanied by any other information or documents required by the approved form.

Note The application must be made to the Registrar: see section 69 of the Act.

140 Assessment by Registrar

- (1) If an application for the transfer of a licence is made, the Registrar must assess the application by reference to the criteria set out in Division 2 of Part 2 of Chapter 3 of the Act (licence transfers).
- (2) For the purposes of making the assessment, the Registrar may consult with the Regulator or any other person.

145 Decision by Minister

- (1) In deciding whether or not to transfer a licence, the Minister:
 - (a) may consult with the Registrar, the Regulator or any other person; and
 - (b) must take into account any advice or recommendations given or made by the Registrar, the Regulator or any other person; and
 - (c) must have regard to any assessment of the application made by the Registrar under subsection 140(1).

Notice of decision

- (2) If the Minister transfers the licence, the Minister must give the Registrar written notice of the Minister's decision.
- (3) The Minister may give notice of the decision to the transferor and the transferee, as required by subsection 70(2) of the Act, by arranging for the Registrar to give that notice.

Note: The notice must specify when the transfer takes effect: see subsections 70(2) and (3) of the Act.

Financial security

- (4) The notice to the transferor and the transferee may specify that:
 - (a) the transferor and transferee must comply with sections 117 and 118 of the Act (financial security) in relation to the licence; or
 - (b) the transferor's obligations under sections 117 and 118 of the Act continue, in whole or in part, for any period during which the licence remains in force (including as a result of an extension of the end day of the licence under the Act).
- (5) Requirements specified under subsection (4) have effect accordingly.

Notice of other requirements

- (6) The notice to the transferee must set out the following that will apply to the transferee:
 - (a) requirements under the Act to give notice of certain matters;
 - (b) any requirement to pay an amount of offshore electricity infrastructure levy.

Note 1: The transfer of a licence must be recorded in the Register: see item 2 of the table in subsection 164(1) of the Act.

Note 2: For other rules relating to the transfer of licences, see Part 2 of Chapter 3 of the Act.

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Part 2 The licensing scheme

Division 8 Change in control of licence holder

Section 150

Division 8—Change in control of licence holder

150 Operation of this Division

For the purposes of paragraph 29(1)(d) of the Act, this Division prescribes matters relating to changes in control of licence holders.

155 Application for approval of change in control of licence holder

An application for approval of a change in control of a licence holder must:

- (a) be made in the manner and form that is:
 - (i) approved by the Registrar; and
 - (ii) published on the Registrar's website; and
- (b) include evidence of payment of the application fee; and
- (c) be accompanied by any other information or documents required by the approved form.

Note 1: The application must be made to the Registrar: see section 86 of the Act.

Note 2: A change of control of a licence holder must be noted in the Register: see section 94 of the Act.

Note 3: For other rules relating to the change of control of a licence holder, see Part 3 of Chapter 3 of the Act.

Division 9—General matters

Subdivision A—Operation of this Division

160 Operation of this Division

For the purposes of section 29 of the Act, this Division prescribes general matters relating to the operation of the licensing scheme.

Subdivision B—Support by Registrar

165 Registrar to screen applications

- (1) This section applies if the Registrar is not satisfied that a licence application meets the requirements of the Act and the licensing scheme.

Note: For *licence application*, see section 20.
- (2) The Registrar must, by written notice:
 - (a) inform the applicant, explaining why the application does not meet the requirements; and
 - (b) give the applicant the opportunity to re-submit the application.
- (3) The notice may specify the period within which the application must be re-submitted. The period must be reasonable having regard to the circumstances.
- (4) To avoid doubt:
 - (a) the Minister is not required to consider the application if:
 - (i) the application is not re-submitted within the period specified (if any);
or
 - (ii) the application does not meet the requirements of the Act and the licensing scheme; and
 - (b) the Registrar is not required to give the applicant more than one opportunity to re-submit the application.

170 Request for further information

- (1) For the purposes of advising the Minister in relation to a licence application, the Registrar may request additional information from the applicant.
- (2) The request must:
 - (a) be in writing; and
 - (b) specify the information required; and
 - (c) specify the day by which the information must be provided; and
 - (d) specify the manner in which the information must be provided.
- (3) If the additional information is not provided by the day specified, the Minister may refuse to consider the application further.

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Part 2 The licensing scheme

Division 9 General matters

Section 175

- (4) If the Minister so refuses, the Minister must give the applicant written notice of the refusal.

175 Advice given by the Registrar

In considering a licence application, the Minister must have regard to any information, assessment, analysis, report, advice or recommendation in relation to the application given to the Minister by the Registrar.

Subdivision C—Procedural fairness

180 Proposed decision to refuse application

- (1) This section applies if, on application, the decision maker proposes to make a decision:
- (a) not to offer to grant a licence (other than a feasibility licence); or
 - (b) not to extend the end day of a licence; or
 - (c) not to vary a licence; or
 - (d) not to transfer a licence; or
 - (e) not to consent to the surrender of a licence; or
 - (f) not to approve a change in control of a licence holder.
- (2) For the purposes of this section, the *decision maker* is:
- (a) for a decision covered by paragraphs (1)(a) to (e)—the Minister; or
 - (b) for a decision covered by paragraph (1)(f)—the Registrar.
- (3) The decision maker must give the applicant written notice of the proposed decision.
- (4) If the decision maker is the Minister, the notice may be given to the applicant by the Registrar.
- (5) The notice must:
- (a) set out the decision maker's reasons for the proposed decision; and
 - (b) invite the applicant to make a written submission about the proposed decision; and
 - (c) specify the period within which the submission must be made.
- (6) The specified period must be reasonable having regard to the circumstances.
- (7) The submission must be given to the Registrar.
- (8) The decision maker must take the submission into account in deciding whether to make the proposed decision.

185 Notice of refusal decision

- (1) If a decision maker makes a decision mentioned in subsection 180(1), the decision maker must give the applicant written notice of the decision and the reasons for the decision.

- (2) If the decision maker is the Minister, the notice may be given to the applicant by the Registrar.

Subdivision D—Receipt and service of documents

190 Documents given to the Minister, Registrar or Regulator

- (1) For the purposes of this section, each of the following is a *recipient*:
- (a) the Minister;
 - (b) the Registrar;
 - (c) the Regulator.
- (2) A document that relates to a matter specified in section 29 of the Act may be given to a recipient:
- (a) by sending it by prepaid post to the postal address of the recipient; or
 - (b) by sending it electronically as an attachment to an email sent to the email address of the recipient; or
 - (c) if a website maintained by the Registrar or Regulator provides another method for sending the document electronically—by sending it in accordance with the instructions on the website; or
 - (d) by leaving it at a place of business occupied by the recipient with a person who:
 - (i) is apparently employed in connection with the activities of the recipient; and
 - (ii) is apparently at least 16 years of age.
- (3) A document given as mentioned in subsection (2) is taken to have been received as follows:
- (a) for a document sent by prepaid post—7 days after it was posted;
 - (b) for a document sent electronically, or left at a place of business—on the day it was so sent or left.

195 Documents given by the Minister, Registrar or Regulator

- (1) A document that relates to a matter specified in section 29 of the Act may be given, by the Minister, the Registrar or the Regulator, to an applicant or licence holder:
- (a) by sending it by prepaid post to the postal address of the applicant or licence holder; or
 - (b) by sending it electronically as an attachment to an email sent to the email address of the applicant or licence holder; or
 - (c) by leaving it at the applicant or licence holder's last known place of business with a person who:
 - (i) is apparently employed in connection with the business of the applicant or licence holder; and
 - (ii) is apparently at least 16 years of age; or
 - (d) if the applicant or licence holder is carrying on business at 2 or more places—by leaving it at one of those places with a person who:

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- (i) is apparently employed in connection with the business of the applicant or licence holder; and
 - (ii) is apparently at least 16 years of age.
- (2) A document given as mentioned in subsection (1) is taken to have been received as follows:
 - (a) for a document sent by prepaid post—7 days after it was posted;
 - (b) for a document sent electronically, or left at a place of business—on the day it was so sent or left.

Part 3—Fees**200 Application fees**

For the purposes of subsection 189(2) of the Act, the following table sets out amounts of fees for dealing with certain applications made under the Act or the applied work health and safety provisions.

| Application fees | | |
|-------------------------|---|----------------------|
| Item | Kind of application | Amount of fee |
| 1 | Application for a feasibility licence | \$X |
| 2 | Application for a commercial licence | \$X |
| 3 | Application for a research and demonstration licence | \$X |
| 4 | Application for a transmission and infrastructure licence | \$X |
| 5 | Application to extend the term of a licence | \$X |
| 6 | Application to vary a licence | \$X |
| 7 | Application to transfer a licence | \$X |
| 8 | Application for approval of change in control of licence holder | \$X |
| 9 | Application to surrender a licence | \$X |

205 Fees for performing or exercising other functions or powers

(1) For the purposes of subsection 189(2) of the Act, the following table sets out amounts of fees for performing or exercising functions or powers under the Act or the applied work health and safety provisions.

| Fees for performing or exercising other functions or powers | | |
|--|--|---|
| Item | Function or power | Amount of fee |
| 1 | Making instruments available for inspection under section 111 of the Act | \$X |
| 2 | Assessing design notifications for offshore renewable energy infrastructure and offshore electricity transmission infrastructure | \$X to receive and process plus assessment fee (see subsection (2)) |
| 3 | Assessing plans for the offshore infrastructure activities and other activities that are to be carried out under a licence | \$X to receive and process plus assessment fee (see subsection (2)) |
| 4 | Assessing a management plan or a revision of a management plan | \$X to receive and process plus assessment fee (see subsection (2)) |
| 5 | Assessing an application for a safety zone | \$X to receive and process plus assessment |

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| Fees for performing or exercising other functions or powers | | |
|---|--|---|
| Item | Function or power | Amount of fee |
| | | fee (see subsection (2)) |
| 6 | Assessing an application for a protection zone | \$X to receive and process plus assessment fee (see subsection (2)) |

- (2) The amount of an *assessment fee* is the total amount of the expenses incurred by the Regulator in performing or exercising the function or power concerned.
- (3) The Regulator may remit the whole or a part of an amount of an assessment fee if the Regulator considers that there are good reasons for doing so.
- (4) An assessment fee is:
- (a) due when the Regulator issues an invoice for the fee to the person who requested the performance or exercise of the function or power; and
 - (b) payable in accordance with the requirements of the invoice.

Part 4—Payment of offshore electricity infrastructure levy

210 Payment of levy

- (1) This section is made for the purposes of subsection 190(1) of the Act.
- (2) An amount of offshore electricity infrastructure levy that is payable for a particular period is due and payable 30 days after the beginning of the period.
- (3) Any additional amount of offshore electricity infrastructure levy that is payable because a licence area is increased during a period for which levy is payable, is due and payable 30 days after the licence area is increased.

Note: For kinds and amounts of offshore electricity infrastructure levies, see the *Offshore Electricity Infrastructure (Regulatory Levies) Regulations 2022*.

Levies to be paid to Registrar or Regulator

- (4) Offshore electricity infrastructure levies must be paid as follows:
 - (a) annual licence levy to the Registrar;
 - (b) annual compliance levy to the Regulator;
 - (c) annual Commonwealth levy to the Registrar.

215 Refunds of levy

- (1) This section is made for the purposes of subsection 190(2) of the Act.
- (2) If an amount of offshore electricity infrastructure levy is overpaid, the person to whom the levy was paid must refund the amount by which the levy was overpaid.
- (3) For the purposes of this section, overpaid levy includes the following:
 - (a) levy overpaid in error;
 - (b) levy overpaid because a licence was held for less than the period for which the levy was paid;
 - (c) levy overpaid because a licence area was decreased during the period for which the levy was paid.

220 Unpaid levy—performance and exercise of functions and powers

The Minister, the Registrar and the Regulator are not required to perform or exercise functions or powers under the Act or this instrument in relation to a person if the person has not paid an amount of offshore electricity infrastructure levy that is due and payable by the person.

Part 5 Other provisions

Section 225

Part 5—Other provisions

225 Datum provisions

For the purposes of paragraph 9(2)(a) of the Act, the position on the surface of the Earth of a point, a line or an area is to be determined by reference to the Geocentric Datum of Australia as defined in Gazette No. 35 of 6 September 1995 (GDA94 geocentric data set).

230 Documentary information that can be made public

For the purposes of paragraph 283(3)(a) of the Act, the Registrar may make reports required under section 125 of this instrument publicly available.

235 Pre-existing infrastructure

For the purposes of paragraph 309(3)(b) of the Act, offshore renewable energy infrastructure or offshore electricity transmission infrastructure constructed, installed or commissioned in connection with the operation or maintenance (including the replacement) of pre-existing infrastructure is to be treated as pre-existing infrastructure.