



Compliance and enforcement

Relevant Legislation

- *Offshore Electricity Infrastructure Act 2021 (the OEI Act)*
- *Offshore Electricity Infrastructure Regulations 2022 (the OEI Regulations)*
- *Offshore Electricity Infrastructure (Regulatory Levies) Act 2021*
- *Offshore Electricity Infrastructure (Regulatory Levies) Regulation 2022*

Background

The Offshore Infrastructure Registrar (the **Registrar**), established under section 153 of the OEI Act provides advice to the responsible Commonwealth Minister on offshore electricity infrastructure licence-related applications. It also maintains the Registrar of Offshore Infrastructure Licences and oversees licence compliance activities. For further information about the Registrar, see www.offshoreregistrar.gov.au.

Role of the Registrar, and the responsible Commonwealth Minister

- The Registrar's functions, as outlined in the OEI Act, include administering the offshore electricity infrastructure licensing scheme. This includes managing the licence assessment process, providing advice and recommendations to the responsible Commonwealth Minister on licence applications, overseeing licence administration and compliance, and maintaining a register of licences.
- For all licences granted under the OEI Act, the responsible Commonwealth Minister is the decision-maker.

Principles of compliance

The Registrar applies the following principles in undertaking its compliance and enforcement functions:

1. Risk based

- Compliance monitoring focuses on activities with the highest risk.
- Enforcement action is proportionate to the magnitude and risk level of the alleged offence.
- All breaches, whether resolved or not, are recorded.

2. Evidence based

- Systematic collection and use of evidence guides decisions on enforcement responses.

3. Transparent

- Clearly communicated compliance obligations.
- Procedural fairness principles applied during compliance monitoring and enforcement.

4. Effective regulation

- Regulatory measures encompass comprehensive compliance strategies for statutory obligations.

5. Consistent

- Consistent application of monitoring and enforcement practices under relevant legislation.

6. Responsive

- Timely decisions on enforcement actions in line with good regulatory practice.

By adopting these principles, the Registrar fosters a culture where licence holders and other persons understand their obligations and how to comply with them, aiding them to meet legislative requirements without creating uncertainty or unnecessary regulatory burden.

Record of Non-Compliance

If the relevant decision-maker under the OEI Act chooses not to pursue formal enforcement responses, the non-compliance remains on the licence holder's record and may be taken into account in the consideration of future applications or compliance and enforcement action.



Compliance and enforcement strategy

The Registrar’s compliance and enforcement strategies are categorised into 4 areas (Compliance Pyramid):



Tiers 1 and 2 include informal options such as: education, awareness, and progress monitoring.

Tiers 3 and 4 include formal enforcement options such as: directions, cancellation of a licence, civil penalties, and prosecution.

The graduated strategy allows issue resolution without passing through all stages, enabling escalation or de-escalation based on breach nature and severity.

In determining where an issue falls within the compliance pyramid, a range of factors will be considered, including risk, past non-compliance, the licence holder's stance, behaviour risk, and the impact on future activities.

Education and awareness

The Registrar uses a number of communication methods to ensure licence holders and other persons are aware of their obligations.

These include:

- publishing information on www.offshoreregistrar.gov.au to complement existing legislation and guidelines.
- conducting public information sessions.
- engaging directly with licence holders, potential licence holders, and other persons.

Early engagement

Licence holders are encouraged to engage early and maintain regular interaction with the Registrar.

When the Registrar identifies possible minor issues of concern or non-compliance, it may notify the involved parties, urging them to address the issue. If informal resolution proves ineffective or inappropriate due to the seriousness of the matter, formal action may be considered.

The Registrar collaborates closely with the responsible Commonwealth Minister to ensure a clear and consistent message. However, as the responsible Commonwealth Minister holds decision-making authority in many instances, the Registrar cannot offer opinions on likely outcomes.

Administrative Action

Licence conditions

Conditions may be applied to each type of licence. These may be included on the notice of grant (or variation) instrument or be imposed via the relevant legislation and regulations.

Licence conditions are statutory and must be fully complied with. Failure to comply may result in compliance and enforcement actions being initiated.

Directions

Under the OEI Act, the responsible Commonwealth Minister or the Registrar has the authority to issue statutory directions to licence holders in specific circumstances. Statutory directions are legally enforceable under the legislation.

Cancellation

Breaches of the OEI Act and the OEI Regulations are evaluated on a case-by-case basis to determine whether the seriousness of the breach warrants cancellation. The final decision is at the discretion of the decision-maker.

Civil/Criminal Action

The fourth tier of compliance action may be considered if it is proportionate to the seriousness of the breach.



As discussed above, it is not necessary to exhaust all other compliance options before selecting this option; the approach is determined by the nature of the breach.

Civil Penalty

The decision to pursue a civil penalty through the courts for breaches of the OEI Act or the OEI Regulations is at the discretion of the decision-maker.

Prosecution

If prosecution is deemed necessary, the initial decision will, in most cases, be made by the decision-maker.

Further information

Further information and assistance with the legislative requirements can be found at www.offshoreregistrar.gov.au.

This Policy is an administrative document intended to provide an overview of compliance and enforcement options and information as to when use of each option is appropriate. It does not reduce, extend, or modify legislative obligations contained in the OEI Act.

This Policy is expressed in general terms. Licence holders should not assume that it deals with all operating conditions and circumstances. This will be determined on a case-by-case basis.

Whilst this Policy assists, it does not control compliance and enforcement related decisions. Each decision will take into account all matters relevant to the particular circumstances.

In the event of any inconsistency between this Policy and the legislation under which the Registrar or a relevant decision-maker exercises a statutory function, power or discretion, the legislation will prevail.

This Policy will be reviewed and amended from time to time to take into account amendments to legislation, feedback from industry as to its usefulness, and changes the Registrar considers desirable.

Version History

Version	Date	Comment
1.0	11/2024	Creation of the document