

RENT

Consultation on draft Hydrogen and
Renewable Energy Regulations

Information sheet

Hydrogen and Renewable Energy Act 2023



Introduction

The [Hydrogen and Renewable Energy Act 2023](#) (HRE Act) and regulations will facilitate and regulate hydrogen and renewable energy development in South Australia and its coastal waters. The regulations are in addition to the HRE Act's requirements so should be read in conjunction with the HRE Act.

This information sheet outlines proposed regulations that establish rental requirements under the HRE Act.

Providing feedback

You are invited to provide feedback on any of the proposed regulatory matters contained in these documents. You can make submissions on [YourSay](#) or by emailing HRE@sa.gov.au. Submissions close on 15 April 2024.

Rental framework

Section 45 of the HRE Act provides that rent must be paid to the Minister for renewable energy licences on government-owned 'designated' land and special enterprise licences.

Rent is payable on an annual basis in arrears and will be an amount determined in accordance with the regulations.

For rent payable in respect to pastoral land, the Minister will be required to pay a prescribed amount or percentage of the rent into the Pastoral Land Management Fund.

Annual rent

Regulation 22 proposes that for renewable energy research licences and special enterprise licences, the annual rent be an amount calculated in accordance with a rental determination made by the Minister.

In the case of renewable energy feasibility licences (REFLs) and renewable energy infrastructure licences (REILs), it is proposed that the annual rent will be:

- an amount calculated in accordance with a rental determination; or
- the amount of any rental offer made by the successful applicant determined by the Minister in response to a call for tenders under section 11 of the HRE Act (the 'successful rental offer');

whichever is the greater amount.

The regulations propose that the Minister must notify the licence holder of the annual rent payable in each licence year.

Rental determination

The regulations propose that the rental determination will set out the manner in which the rent is to be determined (ie calculated) in a specified year or for a specified period. This may be expressed as a rate per km² of the area of land to which the rent applies, or some other basis that reflects the calculation method used.

The Department for Energy and Mining is investigating methods for making rental determinations that appropriately reflect the value of the relevant licence types under the HRE Act.

Factors that might be relevant to informing 'value' include, but are not limited to, the:

- underlying site value
- nature of the right to access and use the land granted by the relevant licence
- capacity of a given type of project that can be accommodated on the land, informed by market rates where relevant.

It is proposed that the rental determination made by the Minister in respect of REFLs and REILs will effectively establish a 'baseline' rental for the relevant area of land. Under the proposed regulations, the Minister will be required to make a rental determination for land within a proposed release area before inviting REFL applications within that area. It is proposed that the Minister can otherwise make a rental determination at any time and must review rental determinations at least every five years.

It is proposed that a rental determination will be published by the Minister by notice in the Gazette. It is also intended that the rental determination will be included in the notice inviting applications for REFLs within a specified release area.

Release areas – rental offer

Section 11 of the HRE Act enables the Minister to invite applications for REFLs within a specified release area. As part of this competitive tender process, the regulations propose that applicants may make a 'rental offer', if they choose to offer a higher rent than the baseline established by the rental determination for a REFL and/or a REIL (if granted).

It is proposed that applicants who choose to make a rental offer will have flexibility in how they structure their offer. Rent will be payable annually, but it is proposed that applicants can choose whether:

- to offer varying rates for the REFL and REIL
- to offer different amounts in different years over the term of the licence and
- the offered amount is to be indexed and if so, how.

It is proposed that any rental offer made by the applicant under regulation 22 be considered when the Minister is assessing applications following a call for tender against the selection criteria.

If the successful applicant, as determined by the Minister following a particular call for tenders under section 11 of the Act, has made a higher rental offer than the baseline established by the rental determination, it is proposed that the annual rent will be payable for the relevant licence in accordance with the rental offer.

Finally, it is proposed that if the successful applicant elected not to make a rental offer, the relevant licence's annual rent will be the amount calculated in accordance with the rental determination.