



Australian Government

Office of the Renewable Energy Regulator

COMPLIANCE AND ENFORCEMENT POLICY

Administer and regulate the national renewable energy target scheme to encourage increased renewable electricity generation



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Contact

Office of the Renewable Energy Regulator
GPO Box 621 Canberra ACT 2601
Ph: (02) 6159 7700
Fax: (02) 6159 7780
Email: orer@orer.gov.au
Internet: www.orer.gov.au

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ORER Mission

Facilitating the expansion and sustainability of the Australian renewable electricity industry to meet generation targets and achieve greenhouse gas reductions.



Office of the Renewable Energy Regulator

Compliance and Enforcement Policy

1. Introduction

The Office of the Renewable Energy Regulator (ORER) is a statutory agency in the Department of Climate Change (DCC) that is part of the Prime Minister and Cabinet (PM&C) portfolio.

The *Renewable Energy (Electricity) Act 2000* (the Act) establishes the Office of the Renewable Energy Regulator (ORER), led by the Renewable Energy Regulator, to oversee the implementation of the Mandatory Renewable Energy Target (MRET).

ORER's role is to assist the Regulator in performing a range of functions including:

- registration of generators and accreditation of power stations;
- registration and validation of renewable energy certificates (RECs);
- monitoring compliance with the legislation, including assessing annual returns submitted by generators and annual statements submitted by wholesale purchasers of electricity;
- auditing participants in the measure;
- maintenance of registers of public information; and
- participation in reviews and evaluations of the MRET.

The purpose of this Policy is to inform stakeholders about how ORER intends to manage compliance and enforcement with the Act.

This policy sits within the broader Australian Government law enforcement policy context and should be read in conjunction with other relevant documents, including:

- *Prosecution Policy of the Commonwealth;*
- *Commonwealth Fraud Control Guidelines;*
- *Australian Government Investigation Standards; and*
- *Attorney-General's Department - Overarching Principles for Selecting Cases for Investigation and Administrative, Civil and Criminal Sanctions.*



2. ORER Compliance and Enforcement Approach

Managing compliance is about encouraging stakeholders to voluntarily comply and dealing with contraventions appropriately.

ORER will use intelligence analysis and risk assessment to make strategic decisions about the allocation of resources with the intent to maximise the number of stakeholders who voluntarily comply with their obligations under the Act. Our objective in this approach is to spend more time on communication, education and training and therefore reduce the need to utilise resources on enforcement.

The core elements of this approach are;

- assisting stakeholders to understand their rights and obligations;
- making it as easy as possible for stakeholders to meet their obligations;
- supporting stakeholders who want to do the right thing; and
- actively pursuing those who opportunistically or deliberately contravene the law.

The best practice approach to implementing compliance programs is based on the Braithwaite responsive regulation model (see Figure 1).

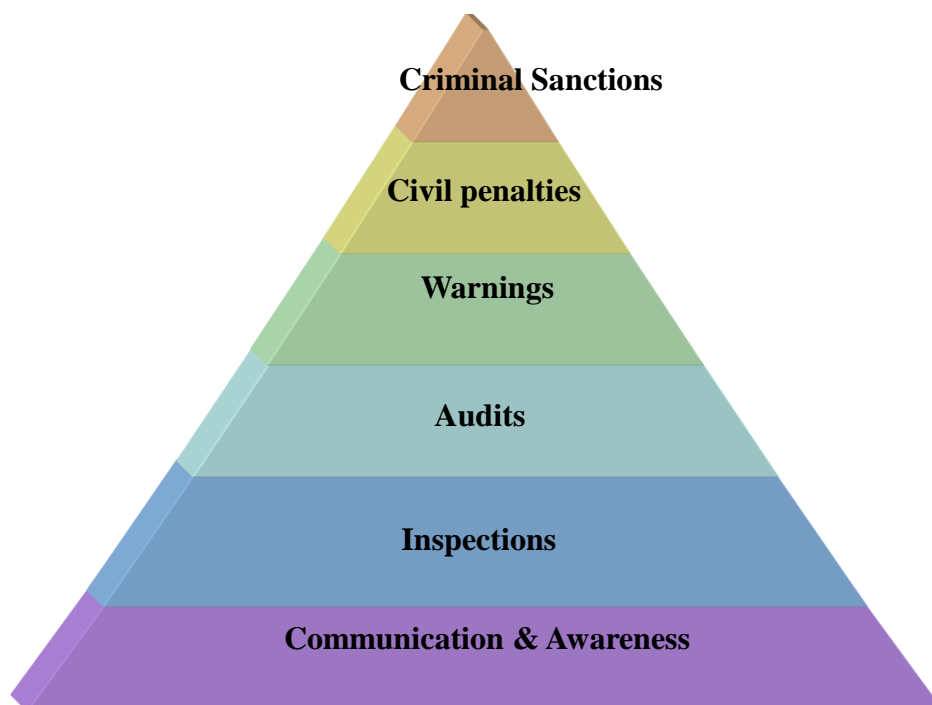


Figure 1. An adaptation of the responsive regulation pyramid: the volume occupied by each layer indicates the effort and resources that should be allocated to that function



ORER's compliance and enforcement framework, policies, procedures and practices are in line with the requirements of the Australian Government Investigative Standards (AGIS) which will enable ORER to escalate any matter to an enforcement approach should parties not voluntarily comply with the requirements and spirit of the *Act*.

3. ORER and its stakeholders

In the course of implementing this policy the Renewable Energy Regulator (the Regulator) will be supported by ORER in the effective performance of the regulatory role by:

- registration of individuals or companies seeking to become registered persons;
- registration of individuals or companies seeking to become registered agents;
- accreditation of eligible renewable energy power stations;
- overseeing the validation of RECs;
- overseeing the acceptance of RECs offered under section 28A of the *Act*;
- handling all information in accordance with relevant legislative obligations, including the *Renewable Energy (Electricity) Act 2000*, *Privacy Act 1988*, the *Freedom of Information Act 1982*, the Commonwealth Fraud Control Guidelines, and the Commonwealth Protective Security Manual;
- imposing any penalties or referring matters for prosecution for non-compliance with the provisions of the legislation;
- allowing liable parties to redeem any RECs, if shortfalls are made up within three years of the shortfall year;
- updating the Register of solar water heaters to include eligible models;
- ensuring the integrity of the measures by undertaking audits of participants including eligible and liable parties;
- updating and maintaining the REC Registry;
- providing industry and other stakeholders with appropriate advice about the measure;
- providing information to public users and stakeholders about MRET on ORER's website;
- administering and enforcing the *Act* in a coherent, consistent and objective manner; and
- operating as efficiently, effectively and transparently as possible so as to be accountable to the Government and the community.

Final responsibility for compliance with legislation, including ensuring the accuracy of all relevant information and advice, rests with the individual person or organisation affected by the legislation.



4. Implementing the Policy

The ORER will implement this policy by;

- stakeholder engagement, education, guidance and encouragement to promote voluntary compliance;
- investigating alleged contraventions;
- undertaking an appropriate response to alleged contraventions; and
- reviewing and reporting.

4.1 Engagement and persuasion

ORER will place a strong initial emphasis on engaging with stakeholders to encourage voluntary compliance with the Act. ORER will make available information and provide opportunities for stakeholders to ask questions discuss issues of concern and participate in educational and discussion forums.

4.2 Compliance monitoring

Monitoring stakeholder compliance with the Act and related legislation is part of ORER's regulatory role. Monitoring helps ORER to:

- determine the level of compliance and trends in stakeholder behaviour;
- detect possible contraventions;
- identify whether, and what type of, education campaigns or enforcement action may be required; and
- assess the effectiveness of its operations and programmes and to identify opportunities for improvement.

ORER monitors compliance with, and detects contraventions of the Act by analysing information from sources such as the general public, peak bodies and industry groups, non-government organisations and other government agencies.

Compliance monitoring may take place through:

- analysis of information reported by registered persons and corporations;
- desk top investigations, including data analysis and other innovative analysis techniques;
- targeted investigations using authorised officers; and
- audits of eligible and liable parties.

Where possible, strategic partnerships with other agencies will be developed to maximise cooperation where monitoring responsibilities overlap. ORER will also work closely with Commonwealth, State and Territory agencies with specific expertise in intelligence gathering, law enforcement or other relevant areas.

4.3 Investigating alleged contraventions

All alleged contraventions of the Act will be prioritised for investigation using a risk management approach. This will include a preliminary examination and analysis of relevant facts in order to decide on the likelihood that a contravention has occurred or is about to occur, its seriousness and its likely consequences.



4.4 Responding to contraventions

ORER will employ a range of responses that escalate according to the severity of the contravention or if non-compliant activities continue. Generally, education and/or warnings will be used in response to first and less serious contraventions; this ensures that parties suspected of contravening the *Act* become aware of legislative requirements.

For serious or continuing contraventions, deterrent actions will be used that may include suspension of registration, suspension of accreditation, civil recovery and criminal prosecution.

5. Criteria for Determining Appropriate Responses

In determining appropriate responses to stakeholders, including in relation to non-compliance, ORER will use a risk-based approach that takes into account the behaviour and motivations of stakeholders. The Compliance Model at Figure 2 shows a spectrum of stakeholder behaviours and motivation ranked according to compliance risk, and the corresponding levels of ORER response.

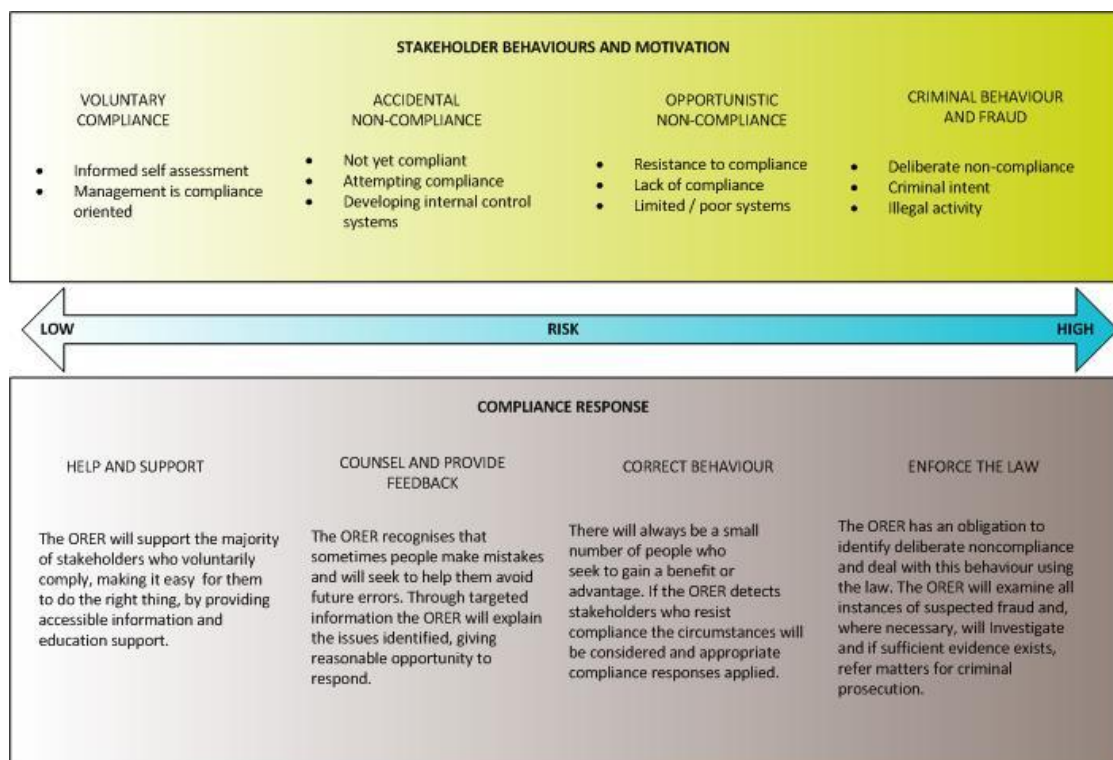


Figure 2: Compliance Model



6. Review and Reporting

ORER is committed to implementing this Policy in a transparent and accountable manner. The ORER will review the implementation of this Policy and over time take into account operational experiences and amendments to legislation. In the event that amendments to the Policy are required as a result of review findings, the Policy will be updated.

7. Further Information

Further information about the legislation may be obtained from the [ORER's website](#).

For additional information about the ORER Compliance and Enforcement Policy or to report suspicions of non-compliant behaviour please contact the ORER Compliance Manager on (02) 6159 7774 or by email to compliance@orer.gov.au

