



Australian Government
Clean Energy Regulator

NATIONAL
GREENHOUSE AND
ENERGY REPORTING

Guidance on completing an Application for Deregistration Form (CER-DER-001)

Under Section 18B of the *National Greenhouse and Energy Reporting Act 2007*
V1.0 18 March 2015

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Purpose of this guide

This guide has been designed to assist applicants in completing the “Application for Deregistration under section 18B of the *National Greenhouse and Energy Reporting Act 2007*” form (CER-DER-001).

This guidance provides further details on information required to be provided and explanations of some of the terms used in the form and in the *National Greenhouse and Energy Reporting Act 2007* (NGER Act) and the National Greenhouse and Energy Reporting Regulations 2008. However, applicants should refer to the relevant legislation as necessary where terms are expressed to have the same meaning as in the legislation.

Applicants can refer to this guidance to identify the statements or information required in the application form. Note however, that the Clean Energy Regulator can, on consideration of an application, require the provision of further information from the applicant.

This guidance is intended to provide general information and guidance to assist applicants completing the “Application for Deregistration under section 18B of the *National Greenhouse and Energy Reporting Act 2007*” form. It does not cover every issue that may arise in relation to an application for deregistration and should not be construed as legal advice, including in regard to the interpretation of legislative provisions. While all reasonable care has been taken in the preparation of this guidance, neither the Clean Energy Regulator nor the Commonwealth will be liable for any loss, damage or cost from any cause (including negligence), whether arising directly, incidentally or consequentially, out of or in connection with, the use of, or, reliance on, this guidance.

Part A: Applicant details

Applicant details

1. Name

How to answer 1

A response to this question is mandatory.

If the applicant has a name on the Australian Business Register, please provide the name as it appears on the Australian Business Register. The name provided should also be the name that appears on all official documents or legal papers of the applicant.

2. Trading name (if any)

How to answer 2

This question is mandatory if the applicant has a separate trading name.

The trading name is the name that the applicant trades under, or is known by its suppliers or customers. It may be different from the applicant's name provided in question 1 above.

3. Head office postal address

How to answer 3

A response to this question is mandatory.

This address can be either a street address, or a GPO/PO Box.

If the applicant is a foreign person, this address may be either the registered office within Australia (maintained in compliance with Australian Securities and Investments Commission (ASIC) requirements), or the person's overseas address.

4. Australian agent

How to answer 4

A response to this question is mandatory for a foreign person.

A body corporate will be a 'foreign corporation' for the purposes of the NGER Act if it is:

- incorporated outside Australia, or
- an authority of a foreign country.

If the applicant is a foreign corporation, you will need to supply the name of the applicant's Australian agent through which it conducts its business. For example, the person that is appointed as the applicant's local agent, in compliance with ASIC obligations.

5. Identifying details

How to answer 5

A response to this question is mandatory.

This question refers to the identifying details for the applicant as provided by an ABN, ACN, ARBN or in circumstances where the applicant does not have any of these numbers, the trading name and street address of the applicant.

- If the applicant has an ABN, please provide this number.
- If the applicant does not have an ABN, please provide the applicant's ACN.
- If the applicant does not have an ABN or ACN, please provide the applicant's ARBN.
- If the applicant does not have an ABN, ACN or ARBN, the applicant's trading name and street address must be provided.

If the applicant does not have an ABN, ACN or ARBN, the applicant is not required to provide the trading name and address under question 5 if this information was provided in questions 2 and 3, **and the address provided at question 3 was a street address** (i.e. not a GPO/PO Box etc.). In this case, tick the check box to indicate that this information has already been provided.

Executive Officer details

Executive officer is defined in section 7 of the NGER Act, as encompassing any of the following individuals of the applicant:

- A Director; or
 - The Chief Executive Officer (however described); or
 - The Chief Financial Officer (however described); or
 - The Secretary.
- ⓘ Note: If the applicant is under Administration, in Receivership or in Liquidation the Clean Energy Regulator will accept the details of the appointed external administrator, receiver and liquidator as long as supporting evidence is provided. An example of acceptable evidence could be an ASIC Insolvency Notice, a letter to creditors advising that an External Administrator has been appointed, or a media announcement with the name of the appointed External Administrator.*
- ⓘ Note: you are only required to provide details of one person who meets the definition of an executive officer. However, if you wish to provide details of more than one executive officer, this page must be copied and separately completed and attached for each executive officer.*
- ⓘ Note: the executive officer identified in this section should be the same person who will sign the declaration at Part D of the form on behalf of the applicant. However, in the event that the body corporate contravenes a civil penalty provision under the NGER Act, any individual who meets the definition of an executive officer under section 7 of the NGER Act, can be held liable under Part 5 of the NGER Act, not just the executive officer identified in this section and who signed the declaration.*

6. Position

How to answer 6

A response to this question is mandatory.


The position of the executive officer must be provided, for example: Chief Financial Officer.

7. Name

How to answer 7

A response to this question is mandatory.

The identifying details of the executive officer (i.e. title, name etc.) must be provided.

 *Note: this is the individual who will sign the declaration in Part D.*

8. Postal address

How to answer 8

A response to this question is mandatory.

The postal address of the executive officer must be provided. This address can be either a street address, or a GPO/PO Box etc.

You are not required to provide this information again if the postal address of the executive officer is the same as the applicant's head office postal address, and this information was provided in question 3. In this case, tick the check box to indicate that this information has already been provided.

9. Contact details

How to answer 9

A response to this question is mandatory.

The phone number and email address of the executive officer must be provided.

 *Note: please include the area code with the phone number.*

Contact person details

10. Is the contact person the same as the executive officer noted above?

How to answer 10

This is the person who the Clean Energy Regulator will contact for matters relating to the applicant's input into the deregistration application.

The Clean Energy Regulator does not have specific requirements in relation to who the contact person is. It is the responsibility of the applicant to decide the most appropriate person to perform this role.

You do not need to complete this section if the applicant's executive officer is the contact person and details of the executive officer have already been provided in questions 6-9. In this case, tick the check box to indicate that this information has already been provided, and move to Part B: Eligibility details.

If contact person details have not already been provided in questions 6-9, you will need to complete questions 11-14.

11. Position

How to answer 11

A response to this question is mandatory.

The position (title) of the contact person must be provided.

12. Name

How to answer 12

A response to this question is mandatory.

The name of the contact person must be provided.

13. Postal address

How to answer 13

A response to this question is mandatory.

The postal address of the contact officer must be provided. This address can be either a street address, or a GPO/PO Box etc.

You are not required to provide the postal address of the contact person if this address is the same as the applicant's head office postal address and these details have already been provided in question 3. In this case, tick the check box to indicate that this information has already been provided.

14. Contact details

How to answer 14

A response to this question is mandatory.

The phone number and email address of the contact officer must be provided.

 *Note: please include the area code with the phone number.*

Part B: Eligibility details

Eligibility statements

15. Eligibility statements

How to answer 15

A response to both of these statements is mandatory.

Statement 1

The applicant must tick the check box to state that they do not hold a reporting transfer certificate (RTC).

If the applicant does hold a RTC they must make a request to the Clean Energy Regulator, in writing, that they would like to surrender the RTC. The surrender takes effect when consent is given by the Clean Energy Regulator.

- ⓘ Note: a deregistration application cannot proceed whilst a reporting transfer certificate (RTC), with reporting obligations, is in force.*
- ⓘ Note: RTCs allows the voluntary transfer of NGER reporting and record keeping obligations from a controlling corporation, where one member of its group has operational control of a facility, to a member of a different corporate group that has financial control of that facility. Holders of an RTC take on reporting, record keeping and compliance obligations under the NGER Act.*

Statement 2

The applicant must tick the checkbox to state that they have complied with their obligations under the NGER Act.

Obligations of the applicant are to submit a compliant section 19 NGER report, by 31 October, for each financial year the controlling corporation was registered. A controlling corporation must report for all affected group members (subsidiaries) and facilities within their corporate group that contribute to section 13 corporate group or facility thresholds regarding scope 1 emissions, scope 2 emissions, energy production and energy consumption.

- ⓘ Note: if the applicant has not complied with their NGER obligations, they cannot apply for deregistration until all obligations have been satisfied.*
- ⓘ Note: failure to meet obligations under the NGER Act may attract civil penalties that accrue each day until obligations are met.*

Part C: Status as a controlling corporation

Statement about status as a controlling corporation

16. Status as a controlling corporation

How to answer 16

A response to one of the three statements is mandatory.

Select the check box next to the statement that applies to the applicant, and then follow the relevant instructions.

i Note: you are required to select only one check box.

Statement 1

i Note: A '**controlling corporation**' is a 'constitutional corporation' that does not have a holding company incorporated in Australia (section 7 of the NGER Act). It is generally the corporation at the top of the corporate hierarchy in Australia. It can be a 'non-operational' holding company. It may also be a foreign incorporated entity that operates directly in Australia (i.e.: does not operate through an Australian incorporated subsidiary).

i Note: Under paragraph 51(xx) of the Australian Constitution, the Australian Parliament has power to make laws with respect to foreign corporations and trading or financial corporations formed within the limits of the Commonwealth. These corporations are known as '**constitutional corporations**'.

Select the first check box if the applicant was registered as the result of an application for registration as a controlling corporation under section 12 of the NGER Act, but no longer meets the definition of a controlling corporation.

Then complete question 17.

Example: this could be due to an acquisition, takeover or corporate restructure, so that the applicant now has An Australian incorporated holding company.

Statement 2

Select the second check box if the applicant is a controlling corporation and its group is unlikely to meet any of the thresholds under section 13 of the NGER Act in:

- the financial year in which the application is made,
AND
- the two financial years following the financial year in which the application is made.

Then complete question 18.

i Example: this could be due to a sale of a facility or improved processes which have resulted in the applicant falling below threshold.

Statement 3

i Note: In addition to being a 'constitutional corporation', in order to meet the definition of a controlling corporation, a corporation must not have an '**Australian incorporated holding company**'. This means that if a corporation is a

subsidiary of another Australian incorporated corporation, then the first corporation will not meet the definition of a 'controlling corporation' for the purposes of the NGER Act.

- ① *Note: This is important to note as registration and reporting obligations of a controlling corporation attach to the highest holding company incorporated in Australia, or if a foreign corporation, to the offshore company that has operational control over a facility within Australia. This means that even where the highest holding company is a 'shelf company', or exists for investment purposes only, it will be the controlling corporation of its corporate group, and must be registered and report on the activities of facilities under the operational control of its subsidiaries.*

Select the third check box if the applicant was invalidly registered as a controlling corporation at the time of registration, as it did not meet the definition of a controlling corporation.

Then complete question 19.

- ① *Example: this could be at the time of registration, the applicant mistakenly believed that it was a controlling corporation but has, subsequently, determined that it did not meet the definition of a controlling corporation. It had an Australian incorporated holding company, was a trust or other type of non-corporate entity.*

17. Applicant no longer meets the definition of a controlling corporation

How to answer 17

A response to this question is mandatory if the applicant selected statement 1 at question 16.

Provide a brief statement in the box provided, explaining why the applicant no longer meets the definition of a controlling corporation.

- ① *Example: this could be due to an acquisition, takeover or corporate restructure, so that the applicant is no longer the highest holding company. For instance, 100% of shares in Company X (the applicant) were acquired by Company Y on 1 March 2015. As Company Y is incorporated in Australia, Company X is no longer the ultimate holding company and, therefore, no longer meets the definition of a controlling corporation.*

If known, the applicant must also supply the name of their new controlling corporation in the box provided. This should be their name as it appears in the Australian Business Register.

The applicant must also indicate whether the new controlling corporation is currently registered as a controlling corporation under section 12 of the NGER Act, by selecting the relevant checkbox:

- **Yes** - the new controlling corporation is registered under section 12 of the NGER Act,
 - **No** - the new controlling corporation is not registered under section 12 of the NGER Act,
- OR
- **Unknown** - the applicant does not know, or is unsure, whether the new controlling corporation is registered under section 12 of the NGER Act.

EV001 - Evidence for question 17

The applicant must also attach evidence that supports the fact that the applicant no longer meets the definition of a controlling corporation. Mark the evidence with the code number EV001 and tick the check box indicating that the evidence has been attached to the application.

- ① *Examples of acceptable evidence would be:*

- A copy of an ASIC company extract that indicates the applicant now has an Australian incorporated holding company.
- A copy of a public statement (ASIC announcement, media release, advice to clients) advising of the change of status (acquisition, takeover or corporate restructure) of the applicant and the date the changes take effect.
- A copy of an extract from the applicant's annual report, or the new controlling corporation's annual report, advising of the change of status (acquisition, takeover or corporate restructure) of the applicant and the date the changes take effect.

18. Below threshold

How to answer 18

A response to this question is mandatory if the applicant selected statement 2 at question 16.

Provide a brief statement in the box provided, explaining why the applicant's corporate group is unlikely to trigger a corporate group threshold and is unlikely to trigger a facility threshold, under section 13 of the NGER Act, in the financial year in which the application is made and the next two financial years.

i *Example: this could be due to sale of assets, or improved operational efficiency, therefore reducing emissions or energy production/consumption, or a decrease in, or cessation of production/trading, due to a wind-up of a company/facility or being under external administration. For instance, as of 1 July 2014, Company A (the applicant) sold Facility X to Company B and this causes the emissions or energy production/consumption of Company A to fall below NGER reporting threshold.*

EV002 and EV003 – Evidence for question 18

The applicant must also attach evidence that supports that the corporate group threshold (EV002) and facility threshold (EV003) will not be met this financial year, or the next two financial years. The evidence should include relevant estimates of greenhouse gas emissions, energy production and energy consumption, and emissions producing activities during this time period. Mark the evidence with the code number EV002 or EV003 and tick the check box indicating that the evidence has been attached to the application.

i *Examples of acceptable evidence would be:*

- A spreadsheet/table indicating corporate group and facility(ies) estimates for the financial year in which the application is made and the next two financial years. This should include relevant estimates for greenhouse gas emissions, energy production and energy consumption.
- Refer to the [Forms and Calculator](#) page under the National Greenhouse and Energy Reporting tab at the Clean Energy Regulator website for calculators. This page has several calculators to assist you with your estimates, including the threshold estimator, solid waste calculator, NGER wastewater calculators and uncertainty calculators.
- A copy of a public statement (ASIC announcement, media release, advice to clients) advising of the sale of assets of the applicant and the date of sale.
- A copy of an extract from the applicant's annual report advising of the sale of assets of the applicant and the date of sale.
- A copy of a public statement (ASIC announcement, media release, advice to clients) advising of a decrease in, or cessation of production/trading, due to a wind-up of a company/facility or being under external administration.
- An explanation and any supporting documentation of more efficient processes /installation of equipment.

- ① *Note: the cessation of trading, or being under external administration, does not release the corporation from its obligations under the NGER Act. While a corporation remains registered, it is obligated to report until it applies for, and is approved for deregistration. Failure to meet obligations under the NGER Act may attract civil penalties that accrue each day until obligations are met.*
- ① *Note: if the applicant is under external administration they should advise the name and contact details of the administrator. The applicant is required to pass all relevant data to the administrator if they are required to act on behalf of the applicant to fulfil obligations.*

19. Invalid registration

How to answer 19

A response to this question is mandatory if the applicant selected statement 3 at question 16.

Provide a brief statement in the box provided, if the applicant is registered as a controlling corporation, but did not meet the definition of a controlling corporation at the time of registration. The applicant must explain why their registration as a controlling corporation was invalid.

- ① *Example: this could be because the applicant had an Australian incorporated holding company, or did not meet the definition of a constitutional corporation. For instance, Corporation A (the applicant) incorrectly applied for registration as it believed it was the controlling corporation. Subsequently, it realises that, in fact, it is not meet the definition of a controlling corporation since it actually has an Australian incorporated holding company.*
- ① *Note: an invalid registration only applies if the applicant did not meet the definition of a controlling corporation at the time of registration. If there was a corporate restructure, sale of asset, or take over etc., after registration then the applicant should complete question 17 instead.*

The applicant must also supply the name of the correct controlling corporation in the box provided. This should be their name as it appears in the Australian Business Register.

The applicant must also indicate whether the correct controlling corporation is currently registered as a controlling corporation under section 12 of the NGER Act, by selecting the relevant checkbox:


- **Yes** - the correct controlling corporation is registered under section 12 of the NGER Act,
 - **No** - the correct controlling corporation is not registered under section 12 of the NGER Act,
- OR
- **Unknown** - the applicant does not know, or is unsure, whether the correct controlling corporation is registered under section 12 of the NGER Act.

EV004 - Evidence for question 19

The applicant must also attach evidence that supports the statement that the applicant was not the correct controlling corporation at the time of registration. Mark the evidence with the code number **EV004** and tick the check box indicating that the evidence has been attached to the application.

① *Examples of acceptable evidence would be:*

- A copy of an ASIC company extract that indicates the applicant had an Australian incorporated holding company at the time of registration.
- A copy of a public statement (ASIC announcement, media release, advice to clients) indicating that the applicant had an Australian incorporated holding company at the time of registration.
- A copy of an extract from the applicant's annual report, or the correct controlling corporation's annual report, indicating that the applicant had an Australian incorporated holding company at the time of registration.

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- An explanation as to why the applicant does not meet the definition of a 'constitutional corporation', and therefore was invalidly registered at the time of registration.

Part D: Declaration

A response to Part D is mandatory.

The declaration at Part D must be signed by the executive officer whose details are provided in Part A of the application.

The signatory must supply the following information:

- Print their full name
- Advise their title/position.
- Advise their organisation (if any).
- Sign the declaration.
- Advise the date the application was signed as dd/mm/yyyy.
 - ① **Note:** *in signing the declaration, the signatory certifies the truth and accuracy of the information and supporting documentation, and that they are authorised to make the application on behalf of the applicant.*
 - ① **Note:** *giving false or misleading information is a serious offence and carries penalties under the Criminal Code Act 1995.*
 - ① **Note:** *If the applicant is under Administration, in Receivership or in Liquidation the Clean Energy Regulator will accept the details of the appointed external administrator, receiver or liquidator, as long as supporting evidence is provided. An example of acceptable evidence could be an ASIC Insolvency Notice, a letter to creditors advising that an External Administrator has been appointed, or a media announcement with the name of the appointed External Administrator.*