



Rialtas na hÉireann  
Government of Ireland

# ORESS 1 Community Benefit Funds Rulebook for Generators and Fund Administrators

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Prepared by the Department of  
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[gov.ie](http://gov.ie)

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# 1 Glossary

<b>CBF</b>	Community Benefit Fund
<b>COD</b>	Commercial Operation Date
<b>DECC</b>	Department of the Environment, Climate and Communications
<b>DDP</b>	Development Delivery Plan
<b>MWh</b>	Megawatt hour
<b>ORESS 1</b>	The first offshore wind auction under RESS
<b>RESS</b>	Renewable Electricity Support Scheme
<b>Rulebook</b>	This ORESS 1 Community Benefit Funds Rulebook for Generators and Fund Administrators
<b>SEAI</b>	Sustainable Energy Authority of Ireland
<b>Terms and Conditions</b>	The ORESS 1 Terms and Conditions, including the Implementation Agreement In respect of an ORESS 1 Project, as may be amended or updated from time to time.

## 2 Introduction

### 2.1 Background

Generators successful in the first offshore wind RESS auction, ORESS 1, are required to make minimum contribution payments to their project's Community Benefit Fund (CBF) during the construction phase and during the support phase of their ORESS 1 Project. To assist with this process, Generators must procure the services of a Fund Administrator.

This Rulebook sets out various rules and guidelines which Generators and Fund Administrators must comply with in respect of their ORESS 1 CBFs, in addition to the obligations set out in the Terms and Conditions<sup>1</sup>. An extract of Section 7 (Community Aspects of ORESS 1) of the Terms and Conditions is included at Annex A for ease of reference.

It is important to note this Rulebook is specifically directed at ORESS 1 Generators and Fund Administrators. It is not intended as practical guidance for local communities. Such practical guidance will take the form of a separate document, specific to each ORESS 1 Project, known as the 'CBF Guidance for the Community'. It is for each Fund Administrator (in collaboration with the CBF Committee) to develop and publish the CBF Guidance for the Community in accordance with the Terms and Conditions and this Rulebook.

### 2.2 Legal

All provisions in this Rulebook shall be binding on Generators and Fund Administrators. Generators should be aware that any failure to comply (or to procure compliance) with this Rulebook may result in the Letter of Offer for its ORESS 1 Project being withdrawn by the Minister, in accordance with Section 7 of the Terms and Conditions.

This Rulebook may be amended, updated, replaced or modified by the Minister from time to time.

In the event of any inconsistency between the provisions of this Rulebook and the Terms and Conditions, the Terms and Conditions shall prevail.

Terms used but not defined in this Rulebook will have the meaning given to them in the Terms and Conditions.

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<sup>1</sup> <https://www.gov.ie/en/policy-information/7498e-renewable-electricity/#renewable-electricity-supports>

This Rulebook shall be governed by and construed in accordance with the laws of Ireland and the Courts of Ireland shall have exclusive jurisdiction in relation to any matter arising under or in respect of this Rulebook.

## **3 Overview of Roles**

### **3.1 Generator**

Generators have overall responsibility for the CBF in respect of their ORESS 1 Project and must ensure that their CBF is compliant with the Terms and Conditions and this Rulebook.

To assist with this process, Generators must procure the services of a Fund Administrator in accordance with the Terms and Conditions and this Rulebook. However, Generators will always retain full responsibility for ensuring that the CBF is compliant with the Terms and Conditions and this Rulebook, notwithstanding the appointment of a Fund Administrator.

### **3.2 Fund Administrator**

The primary role of the Fund Administrator is to facilitate the local community in maximising the opportunities of the CBF on behalf of the Generator, in accordance with the Terms and Conditions and this Rulebook.

### **3.3 SEAI**

SEAI are the administrative body in respect of the compliance of ORESS CBFs and will maintain the SEAI CBF National Register for RESS and ORESS CBFs.

SEAI have the authority to establish and to manage the SEAI CBF National Register and to specify the registration and reporting requirements that apply in respect of the SEAI CBF National Register, including the authority to update, modify or amend such requirements from time to time.

The Generator and Fund Administrator must comply in full with SEAI's requirements in respect of the SEAI CBF National Register.

SEAI will employ a general oversight approach to the management of the SEAI CBF National Register including registration, reporting and an administrative compliance check against the relevant ORESS Term's & Condition's and this Rulebook.

## 4 Procurement of Fund Administrator

### 4.1 Fund Administrator Requirements

A Fund Administrator must:

- (a) Be an incorporated company, registered in a Member State of the European Union or the United Kingdom of Great Britain and Northern Ireland; and
- (b) Be tax resident in a Member State of the European Union or the United Kingdom of Great Britain and Northern Ireland.

Fund Administrators must ensure that they have in place a dedicated community liaison officer to manage interactions with the CBF Target Local Community in relation to the CBF.

The community liaison officer must be:

- (a) ordinarily resident in the vicinity of the CBF Target Local Community; and
- (b) generally accessible to, and available to meet with, the members CBF Target Local Community.

### 4.2 Procurement Requirements

A Generator's procurement and appointment of a Fund Administrator must be done in accordance with best practice and international standards.

Generators must take into account (at a minimum) the prospective Fund Administrator's:

- (a) Experience and expertise;
- (b) Proposed approach to administration of the CBF, including but not limited to:
  - the Fund Administrator's proposals to encourage community uptake and funding opportunities to maximise the impact of the CBF;
  - the Fund Administrator's use of open, transparent, accessible, auditable and leading-class budget management systems;
  - the Fund Administrator's ability to put in place, and maintain, state-of-the-art website and web support services in respect of the CBF Website; and
  - the Fund Administrator's ability to implement robust controls for the allocation of CBF funds, including generation of fund usage reports and case studies;
- (c) Professional organisational, communication, promotional and reporting abilities; and
- (d) Fees and costs for the administration of the CBF.

In considering the appointment of a prospective Fund Administrator, Generators must ensure that the fees and costs component of a Fund Administrator's tender assessment is weighted no higher than 30% of the overall assessment.

## 5 Fund Administrator Contract

The appointment of the Fund Administrator must be governed by a legally binding contract between the Fund Administrator and the Generator (the “Fund Administrator Contract”).

The Fund Administrator Contract must, at a minimum, include:

- (a) An undertaking by the Fund Administrator to comply with this Rulebook and the Terms and Conditions (as each may be amended, updated, replaced or modified from time to time); and
- (b) An undertaking by the Fund Administrator to comply with all applicable laws in the administration and operation of the CBF.

The Generator must, on request, promptly provide a copy of the Fund Administrator Contract to the Minister or SEAI, so that the Minister or SEAI (as applicable) can audit and validate the Fund Administrator Contract for compliance with the Terms and Conditions and this Rulebook.

## 6 Ancillary CBF Documents

### 6.1 Project CBF Guidance for the Community

#### 6.1.1 General

Each Fund Administrator must, in respect of each CBF for its separate ORESS 1 Project, publish detailed guidance for the local community in respect of the CBF in accordance with the Terms and Conditions and this Rulebook (the “CBF Guidance for the Community”).

The CBF Guidance for the Community must:

- (a) Provide, at a minimum, details in relation to:
  - i. the parameters of the CBF Target Local Community, as agreed from time to time by the CBF Committee;
  - ii. the utilisation of existing structures within the CBF Target Local Community to assist with the formation and operation of a representative CBF Committee, consistent with the Terms and Conditions and this Rulebook;
  - iii. the conditions of and procedures for applying for funds from the CBF, including who can apply, what is eligible and ineligible for CBF funding, how and when to apply, and what the reporting and accountability obligations will be for successful applications;
  - iv. how appeals and complaints on CBF funding decisions and/or the operation of the CBF can be undertaken;
  - v. the appointment and functions of the CBF Committee, how the obligation to be representative of the local community will be achieved, and the procedures to ensure fair consideration and evaluation of funding applications;
  - vi. the process for meetings of the CBF Committee; and
  - vii. the duties of each CBF Committee member, including a Code of Conduct and Conflict of Interest policies and procedures, and the rules specific to independence and impartiality, disclosure of interests, rotation and term length maximums, data protection and commitment to strict confidentiality and discretion; and
  
- (b) Align with the CBF Development Delivery Plan (DPP), as may be updated or amended from time to time.

The overall objective of the CBF Guidance for the Community is to ensure the local community is facilitated and supported as best possible to make most effective use of funds from the CBF, as determined by the community itself.

In the case of any inconsistency between the CBF Guidance for the Community and this Rulebook or the Terms and Conditions, this Rulebook or the Terms and Conditions (as applicable) will prevail.

### **6.1.2 Development and Publication of CBF Guidance for the Community**

Each Fund Administrator must, as soon as possible after its appointment, prepare a draft of the CBF Guidance for the Community.

Once the CBF Committee is established and in place, the Fund Administrator and CBF Committee must work in collaboration to finalise and publish the CBF Guidance for the Community as soon as reasonably practicable.

The Fund Administrator and CBF Committee must regularly review and, if necessary, update the CBF Guidance for the Community to ensure that it is fit for purpose and accurate.

The CBF Guidance for the Community (and any updates or amendments to it) must be published and freely accessible on the CBF Website.

The Fund Administrator and CBF Committee must agree the policy on the provision of translations of the CBF Guidance for the Community in line with statutory standards and bearing in mind the requirements of distinct groups within the local community as necessary, as such standards and requirements may change from time to time.

The Fund Administrator and CBF Committee must ensure that the local community is aware of, and understands, the CBF Guidance for the Community and shall, if necessary, host workshops or information events for the local community to explain and answer any questions on the CBF Guidance for the Community.

## **6.2 Development Delivery Plan (DDP)**

### **6.2.1 Development Process**

As soon as possible after the formation of the CBF Committee, the Fund Administrator and the CBF Committee must prioritise the joint development of a plan in relation to the delivery of CBF Funding to the CBF Target Local Community (the “Development Delivery Plan” or “DDP”).

The DDP must be developed in consultation and collaboration with the local community in respect of the ORESS 1 Project and key local stakeholders.

The Fund Administrator and CBF Committee must use their respective best endeavours to ensure that the DDP is agreed and in place within one year from the Commencement Date.

The DDP (as may be amended or updated from time to time) shall be published on the CBF Website.

### **6.2.2 DDP Requirements**

The DDP must, at a minimum:

- (a) seek to identify the key priorities and needs across the CBF Target Local Community and to set out a simple and straightforward approach and strategy for future CBF funding that may help to address these key priorities and needs and that aligns with other objectives and at the local, county, regional and national level where applicable and appropriate;
- (b) give appropriate consideration to medium-term and long-term community priorities and multi-annual funding initiatives;
- (c) align with UN Sustainable Development Goals (SDGs);
- (d) clarify key priorities and needs in marginalised communities, new communities and other similar groups and how CBF funding may help to address such key priorities and needs; and
- (e) give appropriate consideration to communities, groups or areas which are in particular need of support – such as marginalised communities, new communities and other similar groups. The DDP could, for example, choose to reserve some of the CBF funding for initiatives that address drivers of social or economic disadvantage among communities, encourage better energy sustainability solutions, benefit the local fishing community, support marine biodiversity and conservation, or enhance a particular location or area.

### **6.2.3 Other**

The DDP must be reviewed at least every 3 years (or sooner if the circumstances of the CBF Target Local Community have changed).

## **7 Requirements in respect of CBF Committee**

### **7.1 Formation of CBF Committee**

As soon as possible following its appointment, the Fund Administrator shall organise the formation of the CBF Committee.

For the purposes of identifying the local community in connection with the formation of the CBF Committee, Fund Administrators must ensure that this local community includes, but is not limited to, the local stakeholders and the surrounding communities that were consulted on as part of the Maritime Area Consent (MAC) process in respect of the relevant ORESS 1 Project.

In connection with the formation of the CBF Committee, the Fund Administrator must:

- (a) Ensure that the local community in respect of the ORESS 1 Project is made aware of the proposed formation of the CBF Committee, including by publication in print media, social media or by other means and notifying the local community about the CBF Website;
- (b) Publish the proposed CBF Committee selection process on the CBF Website;
- (c) Make every effort to ensure that the CBF Committee is representative of the local community in respect of the ORESS 1 Project. This means the Fund Administrator must be proactive in reaching out to a diverse and inclusive geographic and demographic representative sample of the local community, to include non-profit organisations and representative groups; and
- (d) Ensure that a transparent and fair selection process is used to appoint CBF Committee members in accordance with this Rulebook.

### **7.2 Composition of CBF Committee**

The CBF Committee must have a minimum of 7 members and a maximum of 20 members, inclusive of two advisory non-voting ex-officio members (one on behalf of the Generator and another on behalf of the Fund Administrator).

The advisory non-voting ex-officio members will be entitled to attend and to contribute to all CBF Committee proceedings but will not enjoy voting rights on decision-making.

At least two members of the CBF Committee must be the designated member of distinct non-sectoral (i.e, representing the general community) representative organisations or representative groups, such as Local Authorities, Local Community Developments Networks, Local Enterprise Offices, and Regional Development agencies.

The remaining CBF Committee members will be appointed to the CBF Committee based on evidence of (i) their connection to the local community and/or (ii) specific experience/skills/expertise in relation to community development, the sustainable development goals (SDGs) and/or community investment.

The Fund Administrator must work with the CBF Committee to ensure that the composition of the CBF Committee at no time facilitates a situation whereby any group or interest is over-represented and/or has a dominant influence over the decisions of the CBF Committee.

The Fund Administrator must ensure that the CBF Committee is, and remains at all times, appropriately representative of the local community in respect of the ORESS 1 Project.

Where there is a persistent lack of interest in the local community becoming members of the CBF Committee, the Fund Administrator must investigate the reasons for such lack of interest and use best endeavours to address it.

### **7.2.1 Fund Administrator Obligations to the CBF Committee**

The Fund Administrator must:

- Ensure that CBF Committee meetings are scheduled and held regularly;
- Agree working CBF Committee procedures, which align with the DDP, for the distribution of CBF funding and which (at a minimum) include details on appropriate financial controls and oversight, communications of funding rounds, funding opening and closing dates, an accessible application process, query support, Overview Report, Project Evaluation System, Announcements and Allocation Reports, Contract Management, File Management, De-commitments/Re-commitments, Project Payments and Final Reports;
- Ensure that at least one CBF funding round is conducted annually;
- Monitor the assessment and evaluation of CBF funding applications by CBF Committee and collate scores according to the merits of CBF funding applications;
- Ensure that all CBF Committee members are fully informed and equipped to ensure the collective decisions of the CBF Committee are appropriate to and consistent with the Terms and Conditions and also with the DDP;
- Implement CBF Committee decisions in full and in good faith and must immediately notify the CBF Committee of any issues or concerns as they arise relating to these decisions;

- Ensure that detailed minutes of CBF Committee meetings are published to all CBF Committee members no later than 5 days after the relevant CBF Committee meeting; and
- Work in good faith with the CBF Committee to ensure that the CBF is wholly compliant with the Terms and Conditions and this Rulebook.

### **7.2.2 Other**

The Fund Administrator and CBF Committee must continue at all times to reach out to everyone in the local community to ensure they retain confidence and capacity to fully engage with the opportunities of the CBF. This is especially important for marginalised groups within the community which may require additional assistance to formulate and present funding applications for consideration. These supports must be made available by the Fund Administrator as necessary. All direct costs may be met out of the CBF.

The Fund Administrator and CBF Committee must seek to engage with all community groups and plans already in place, to strive to complement and align with each other where possible and appropriate to do so.

## **8 Designation of CBF Target Local Community**

### **8.1 General**

As provided for in Section 7 of the Terms and Conditions, funding from the CBF must be distributed for the benefit of the CBF Target Local Community. The CBF Target Local Community is the local community in respect of the ORESS 1 Project, as defined by the CBF Committee for that ORESS 1 Project in accordance with the Terms and Conditions and this Rulebook.

### **8.2 Identification of CBF Target Local Community**

As soon as practicable following its formation, and at least 90 days in advance of notification by the Fund Administrator of the closing date of first funding round of the CBF, the CBF Committee must discuss, identify and define the CBF Target Local Community in respect of the ORESS 1 Project, in line with the Terms and Conditions and this Rulebook. In doing so, the CBF Committee must ensure that:

- (a) The CBF Target Local Community has a geographical boundary which is clearly defined, limited and proximate to the relevant ORESS 1 Project; and
- (b) The decision to define the CBF Target Local Community is decided upon by a majority vote of the CBF Committee.

### **8.3 Notification to SEAI for Compliance**

The Fund Administrator must immediately notify SEAI of the proposed definition of the CBF Target Local Community. Similarly, the Fund Administrator must notify SEAI details of any subsequent proposed change/review of the definition by the CBF Committee.

### **8.4 Review of Target Local Community by CBF**

The CBF Committee must actively review and consider whether the definition of the CBF Target Local Community is fit for purpose and a fair representation of the local community in respect of the ORESS 1 Project.

The CBF Committee may, from time to time, update the definition of the CBF Target Local Community.

The CBF Committee should note that funding from the CBF must be distributed for the benefit of the CBF Target Local Community. However, this does not preclude CBF funding being provided to recipients that are not located in the CBF Target Local Community,

provided that it can be demonstrated that the receipt by such recipients of the CBF funding is for the benefit of the CBF Target Local Community.

## **8.5 Interaction with other CBFs**

It is anticipated that projects supported by ORESS may have overlapping parameters of their respective CBF Target Local Communities.

In such circumstances, the Generator, Fund Administrator and CBF Committee must make every reasonable attempt to engage and consult with the other project developers and fund administrators to coordinate funding opportunities and to prevent duplicate funding applications.

## 9 CBF Bank Account

The Fund Administrator must, prior to the establishment of a CBF, establish and maintain in its name a bank account which is:

- (a) located in Ireland;
- (b) provided by a bank that is authorised to provide banking services in Ireland (the “CBF Bank”); and
- (c) designated as the CBF bank account in respect of the relevant ORESS 1 Project (the “CBF Bank Account”)

The Fund Administrator must ensure that all amounts contributed by the Generator in respect of the CBF are paid directly into the CBF Bank Account and are held in the CBF Bank Account until such amounts are distributed in accordance with the Terms and Conditions and this Rulebook.

No other funds, except for those contributed by the Generator in respect of the CBF, shall be deposited in the CBF Bank Account. The Fund Administrator shall not commingle any funds standing to the credit of the CBF Bank Account with its own personal or any other funds.

The Fund Administrator shall not enter into any arrangements which assign or charge or purport to assign or charge any interest the Fund Administrator has in the CBF Bank Account.

No later than 5 days after the establishment of the CBF Bank Account, the Fund Administrator shall provide to the Minister and to SEAI the details of the CBF Bank Account (including the identity of the CBF Bank and all other identifying details in respect of the CBF Bank Account). If at any time, the information provided in respect of the CBF Bank Account becomes inaccurate or untrue in any respect, the Fund Administrator shall update the Minister and SEAI as soon as practicable.

## 10 Distribution of CBF Funding

### 10.1 Funding Decisions

At least one month prior to the beginning of any CBF funding application process, the Fund Administrator must advertise the upcoming CBF funding application process to a broad spectrum of the CBF Target Local Community in respect of the ORESS 1 Project, utilising all relevant media (including social media).

The Fund Administrator must ensure that:

- (a) The operation of the CBF is wholly transparent, auditable and accountable;
- (b) CBF funding applications are open to all members of the CBF Target Local Community and available for completion through the CBF Website;
- (c) All CBF funding applications are assessed using fair, proportional, inclusive, sensitive and measured criteria;
- (d) A fully transparent record is maintained of all CBF funding decisions and the underlying methodology and rationale for such decisions;
- (e) The outcomes of all CBF funding application decisions (whether successful or unsuccessful) must be published promptly on the CBF Website;
- (f) CBF funding decisions are compliant with applicable EU Commission State-Aid Rules; and
- (g) CBF funding decisions are consistent with the UN Sustainable Development Goals (SDGs).

### 10.2 Prohibited Funding

The Fund Administrator must ensure no CBF funding is provided either directly or indirectly toward any of the following:

- (a) Applications that promote religious or political activities;
- (b) The direct replacement of statutory funding;
- (c) Retrospective funding; or
- (d) Illegal activities.

The Fund Administrator must actively monitor and ensure effective oversight of all CBF funding to ensure that it is being used for the intended purpose.

## 11 Termination or Insolvency of Fund Administrator

It is acknowledged that the appointment of the Fund Administrator may, for a variety of reasons, come to an end – for example, due to a breach by the Fund Administrator of the Terms and Conditions or this Rulebook or due to an insolvency of the Fund Administrator.

In this context, the Generator and the Fund Administrator must ensure that the Fund Administrator Contract contains a detailed continuity plan (the “CBF Continuity Plan”) which sets out processes to be followed by the Generator and Fund Administrator in such scenarios to ensure a smooth and timely transition to a replacement Fund Administrator, in accordance with best practice.

In particular, the Fund Administrator must be obliged to support the Generator (including after termination of the Fund Administrator Contract) in the transition to a replacement Fund Administrator and in the continued administration of the CBF pending the completion of such transition.

A copy of the CBF Continuity Plan must be provided to the Minister and to SEAI no later than 30 days after the appointment of the Fund Administrator. The Minister and/or SEAI shall be entitled from time to time to request reasonable amendments, updates or modifications to the CBF Continuity Plan and the Generator and Fund Administrator must incorporate such requests into the CBF Continuity Plan as soon as possible.

For the avoidance of doubt, if the appointment of the Fund Administrator comes to an end for any reason:

- (a) The Generator must immediately notify the Minister and SEAI; and
- (b) The Generator will remain responsible and liable for the CBF’s compliance with the Terms and Conditions and this Rulebook.

Generators are reminded that it is an obligation under Section 7 of the Terms and Conditions to ensure that a Fund Administrator is duly appointed and in place at all times during the administration of the CBF. Failure to comply with this obligation may result in the Letter of Offer in respect of the ORESS 1 Project being withdrawn.

## **12 SEAI CBF National Register**

SEAI have the authority to establish and to manage SEAI CBF National Register and to specify the requirements that apply in respect of SEAI CBF National Register, including the authority to update, modify or amend such requirements from time to time.

The Generator and Fund Administrator must comply in full with SEAI requirements in respect of the SEAI CBF National Register.

### **12.1 Registration Obligation**

Generators must register their company details, details of the ORESS 1 Project and any other details required by SEAI, with the SEAI CBF National Register.

Fund Administrators must register all CBF details required by SEAI with the SEAI CBF National Register.

### **12.2 Updated Requirements**

SEAI may from time to time require the Fund Administrator to provide further details in respect of the CBF (and any related matters) for publication on SEAI CBF National Register. The Fund Administrator must promptly comply with all such requests.

### **12.3 Other**

Any reports (or sections of reports) carried out under this Rulebook or the Terms and Conditions may be published by SEAI on the SEAI CBF National Register, at their discretion.

If at any time, the information on the SEAI CBF National Register becomes inaccurate or untrue in any respect, the Fund Administrator must update SEAI as soon as practicable.

## **13 Enforcement and Non-Compliance**

### **13.1 General**

As noted in Section 3.3, SEAI are the administrative body in respect of the compliance of ORESS CBFs.

SEAI may request any further information from Fund Administrators or Generators as they deem necessary to carry out their administrative compliance role effectively, and Fund Administrators and Generators must promptly provide such information as may be requested by SEAI.

### **13.2 Non-Compliance Process**

If SEAI becomes aware of any non-compliance (or alleged non-compliance) in respect of a CBF, it will engage in discussions with the relevant Fund Administrator to establish the facts in relation to the non-compliance (or alleged non-compliance). As part of such discussions, SEAI and the Fund Administrator will aim to agree a plan of action to correct any non-compliance or to address the basis for any alleged non-compliance.

If a plan of action cannot be agreed or the plan of action does not remedy the non-compliance (or alleged non-compliance) then SEAI will notify DECC.

DECC may then engage in discussions with the Generator to resolve the matter.

Generators are reminded that any failure to comply (or to procure compliance) with this Rulebook may result in the Letter of Offer for its ORESS 1 Project being withdrawn by the Minister, in accordance with Section 7 of the Terms and Conditions.

## **14 General Provisions**

### **14.1 CBF Website**

As soon as practicable following its appointment (and in any event prior to the establishment of the Community Benefit Fund), the Fund Administrator must establish a dedicated website for the CBF (the “CBF Website”) which must remain in place for the duration of the CBF.

The CBF Website must be freely accessible on web and mobile browsers.

The purpose of the CBF Website is to serve as an information hub for the CBF, the CBF funding application portal, and CBF funding notification and reporting platform.

### **14.2 Compliance with Law**

Generators and Fund Administrators must comply with all applicable laws in carrying out their obligations under this Rulebook.

### **14.3 Appeals and Complaints**

The Fund Administrator and Generator must establish and publish a comprehensive appeals and complaints policy which complies with best practice and which can effectively and efficiently resolve appeals and complaints in relation to the CBF.

The Fund Administrator and Generator must use all reasonable endeavours to effectively and efficiently resolve any appeals or disputes related to the administration of the CBF.

Where it deems necessary for such purpose, the Fund Administrator and Generator may refer an appeal or dispute to an independent expert for a final and binding determination on the matter.

The Fund Administrator and Generator must ensure that all CBF appeals and complaints are dealt with courteously and professionally, are handled in a timely and discrete manner and are duly recorded.

### **14.4 State Aid**

RESS is approved by the European Commission on the basis that support does not breach State Aid rules. Under EU Competition law, State Aid refers to public assistance provided to ‘undertakings’ which may distort competition, whereby an ‘undertaking’ is a broad category which includes any person or body engaged in economic activity.

Not all groups/entities are community benefit organisations i.e. corporate/commercial businesses are for profit and do not constitute a community benefit, however a

commercial/private company working in collaboration with a community benefit organisation (registered non-profit such as a charity, social enterprise, association, club, CLG or similar) could, in partnership, create community benefit. If CBF funding is provided to undertakings, the total level of State funding received from all sources should not exceed the relevant de-minimis threshold. If these levels are likely to be exceeded, DECC will consider progressing clearance for aid in line with relevant block exemption regulations.

Generators and Fund Administrators must ensure they each have a comprehensive understanding of State Aid rules and obligations. Professional training and advice should be secured, if necessary. The Fund Administrator must be in a position to advise and instruct the CBF Committee on State Aid in all matters of consideration of CBF funding applications and decisions. Additional training should be made available for the CBF Committee, if necessary.

## **14.5 Reporting**

### **14.5.1 Obligations of the Generator**

The Generator must report to SEAI annually on certain details in connection with the CBF, such as the output of the ORESS 1 Project in respect of the previous year and details of any Early Contribution Payments offsets being applied.

The specific details of the timeframe involved and the detailed reporting requirements will be provided by SEAI at a later stage and may be updated or revised by SEAI from time to time.

### **14.5.2 Obligations of the Fund Administrator**

Fund Administrators are required to report to SEAI on their respective CBFs (the “CBF Report”) in accordance with requirements which SEAI may from time to time specify.

The CBF Report must be approved by the CBF Committee.

The CBF Report must be in a form acceptable to SEAI.

The Fund Administrator must:

- (a) Submit the CBF Report to SEAI; and
- (b) Publish the CBF Report on the CBF Website (with the exception of any personal information).

## **14.6 Financial Records and Audit**

Each Generator shall, or shall procure that the Fund Administrator appointed by it shall, at all times maintain complete and accurate financial statements, records and information in respect of the CBF.

The Generator and Fund Administrator must ensure the CBF is audited annually by a qualified and recognised certified auditor (the “Annual CBF Audit”).

The Annual CBF Audit must be approved by the CBF Committee.

The Fund Administrator must:

- (a) Submit the Annual CBF Audit to SEAI; and
- (b) Publish the Annual CBF Audit on the CBF Website (with the exception of personal information).

All financial statements and audit reports prepared must be made publicly available on the CBF Website.

## **14.7 Publication and Data Protection**

### **14.7.1 General**

The Fund Administrator must ensure that any data subjects whose personal data it processes in administering the Community Benefit Fund:

- (a) are made aware that SEAI and/or the Minister may process certain personal data in accordance with this Rulebook and/or the Terms and Conditions; and
- (b) are notified that the processing of such personal data will be carried out in compliance with the privacy statements of SEAI or the Minister (as applicable), providing links to the current privacy statements of SEAI and the Minister.

### **14.7.2 Processing by Other Entities**

The Fund Administrator must ensure that any data subjects whose personal data it processes in administering the Community Benefit Fund:

- (a) are made aware that SEAI and/or the Minister may process certain personal data in accordance with this Rulebook and/or the Terms and Conditions; and

- (b) are notified that the processing of such personal data will be carried out in compliance with the privacy statements of SEAI or the Minister (as applicable), providing links to the current privacy statements of SEAI and the Minister.

## 14.8 CBF and Compensation

The CBF is not to be considered as compensation or mitigation whatsoever. Rather, the CBF is intended to enable the local community, as a neighbour to the development, to share in the benefits of offshore wind energy and to use those funds for the enhancement of the area.

## 14.9 Cooperation

Generators and Fund Administrators must act in good faith and cooperate with the Minister and SEAI in connection with the operation of the CBF and any matters in relation to this Rulebook.

In particular, Generators and Fund Administrators must provide prompt and detailed responses (with supporting documentation, where appropriate) to any queries raised by the Minister or SEAI in connection with the CBF.

## 14.10 CBF Engagement Standards

Both the Generator's and the Fund Administrator's engagements in connection with the CBF must be aligned with best practice and international standards, including for example the OECD's due diligence for meaningful engagement<sup>2</sup> or AA1000's international stakeholder engagement standards<sup>3</sup>.

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<sup>2</sup> <https://www.oecd.org/publications/oecd-due-diligence-guidance-for-meaningful-stakeholder-engagement-in-the-extractive-sector-9789264252462-en.htm>

<sup>3</sup> <https://www.accountability.org/standards/aa1000-stakeholder-engagement-standard/>

## 15 Further Information

Given the scale of Ireland's offshore renewable energy potential, collaborative working and learning approaches will be beneficial for everyone involved. Within the ORESS 1 CBF considerations, there is recognition of the imperative to provide support and encouragement to secure the requisite talents and skills to take full advantage of the offshore opportunity.

SEAI are themselves an excellent source of practical guidance on the development of sustainable community development throughout Ireland [www.seai.ie](http://www.seai.ie)

Skillnet Ireland is a further resource which could be utilised for specialised skills and knowledge, see Climate Ready: Talent for Ireland's Green Economy [www.skillnetireland.ie](http://www.skillnetireland.ie)

The Wheel, Ireland's national association for community organisations, is an excellent resource for active community engagement and participation [www.thewheel.ie](http://www.thewheel.ie)

# Annex A: ORESS1 Terms & Conditions Section 7

## Community Aspects of ORESS 1

Community participation in ORESS 1 is via the Community Benefit Fund. If a Generator fails to comply or to procure compliance (as the case may be) with this Section 7, the Letter of Offer may be withdrawn.

### 7.1 General

- 7.1.1 Each Generator shall ensure that community participation in ORESS 1 shall be through a community benefit fund established by that Generator for the relevant ORESS 1 Project (the “Community Benefit Fund” or “CBF”) in accordance with the provisions of this Section 7 and any community benefit fund rules and guidelines for Generators and Fund Administrators in respect of ORESS 1 which may be published from time to time by the Minister or a nominated body (the “ORESS 1 CBF Rulebook”).
- 7.1.2 Without prejudice to the Minister’s other rights under this Section 7, if a Generator fails to either (a) comply with its obligations under this Section 7, (b) comply with its obligations under the ORESS 1 CBF Rulebook, or (c) procure compliance with the relevant obligations under this Section 7 or the ORESS 1 CBF Rulebook by the Fund Administrator or the CBF Committee (each as hereinafter defined), the Letter of Offer for the relevant ORESS 1 Project may (in the Minister’s sole discretion) be withdrawn by the Minister.
- 7.1.3 Each Generator expressly acknowledges and agrees that the provisions of this Section 7 are strictly subject to Section 11.5 (Liability) of these Terms and Conditions and without prejudice to the foregoing each Generator agrees to, at its sole cost and expense and on demand, defend, hold harmless and indemnify the Minister against any and all liabilities, losses, damages, costs and/or expenses (including any liabilities, losses, damages, costs and/or expenses relating to any third party claim or action) of any nature whatsoever and howsoever arising (including indirect or consequential damage or loss whatsoever or howsoever arising) in any way resulting from any actions or omissions of (a) a Generator, or (b) any Fund Administrator or CBF Committee appointed or established by such Generator, in any such case in the performance or non-performance of any of their respective obligations under these Terms and Conditions and/or the ORESS 1 CBF Rulebook, and any such liability, losses, damages, costs and/or expenses is hereby expressly disclaimed by the

Minister and his or her officers, employees, servants, advisers and agents and is hereby excluded, in each case, to the fullest extent permitted by law.

- 7.1.4 If at any stage the Minister (in his or her sole discretion) determines that an issue has arisen, or may arise, in connection with the distribution of funding from the Community Benefit Fund, the Minister may direct that all funds in the Community Benefit Fund must be transferred to a bank account specified by the Minister (or a nominated body) in order to safeguard and ensure the continued distribution of funding to the CBF Target Local Community in accordance with the requirements of this Section 7 and the ORESS 1 CBF Rulebook. The Generator and Fund Administrator will comply with such direction as soon as practicable and in any event no later than 5 Working Days following such direction.

## **7.2 Community Benefit Fund**

- 7.2.1 Each Generator for an ORESS 1 Project is required to establish a Community Benefit Fund no later than 1 year after the Commencement Date of the relevant ORESS 1 Project. Subject to Section 7.2.2, with effect from the Commercial Operation Date of an ORESS 1 Project, and in respect of each PSO Levy Year (or pro rata part thereof) during the ORESS 1 Support Period for the relevant ORESS 1 Project, the Generator for that ORESS 1 Project shall be required to make a contribution calculated as the Loss-Adjusted RESS Metered Quantity for that ORESS 1 Project multiplied by €2/MWh (the "ORESS 1 Annual CBF Contribution Payment") to the Community Benefit Fund, provided that the Community Benefit Fund shall be funded on and from the Commercial Operation Date in accordance with the following provisions of this Section 7.2.1:

- (a) the amount being the Deemed Energy Quantity calculated pursuant to Section 6.8.4 and multiplied by 1,000 to convert from GWh to MWh of the ORESS 1 Project for that PSO Levy Year (or pro rata part thereof), multiplied by €2/MWh, shall be deposited by the Generator annually (in arrears), no later than one month following such PSO Levy Year (or part thereof), with the Fund Administrator appointed by that Generator to the bank account nominated by such Fund Administrator; and
- (b) no later than twenty (20) Working Days before the start of the immediately subsequent PSO Levy Year, the Generator shall calculate the amount being the Loss-Adjusted RESS Metered Quantity for that ORESS 1 Project multiplied by €2/MWh for the immediately preceding PSO Levy Year, and where such amount is:

(i) greater than the amounts paid in accordance with Section 7.2.1(a), the excess shall forthwith (and in event no later than ten (10) Working Days) be deposited by the Generator with the Fund Administrator (as hereinafter defined) appointed by that Generator to the bank account nominated by such Fund Administrator; or

(ii) lower than the amounts paid in accordance with Section 7.2.1(a), the Fund Administrator shall refund the difference between such amounts to the bank account nominated by the Generator to the Fund Administrator.

The Generator shall forthwith (and in any event no later than ten (10) Working Days after receiving a request in writing from the Minister) provide the Minister with such documents and records (including any reasonable supporting documents) as the Minister may request in writing from the Generator in relation to the calculations carried out by the Generator pursuant to this Section 7.2.1.

7.2.2 For each 12 month period following the Commencement Date (each such date being an “Early Contribution Year”), the Generator shall be obliged to deposit in its respective Community Benefit Fund a euro amount equal to a percentage of the Deemed Energy Quantity (as specified below), annually (in arrears) no later than one month after the end of the relevant Early Contribution Year (or part thereof), as follows:

- (a) 30% of the Deemed Energy Quantity for one year of the ORESS 1 Project calculated pursuant to Section 6.8.4 and multiplied by 1,000 to convert from GWh to MWh, multiplied by €2/MWh, for the first Early Contribution Year;
- (b) 60% of the Deemed Energy Quantity for the ORESS 1 for one year of the ORESS 1 Project calculated pursuant to Section 6.8.4 and multiplied by 1,000 to convert from GWh to MWh, multiplied by €2/MWh for the second Early Contribution Year;
- (c) 80% of the Deemed Energy Quantity for one year of the ORESS 1 Project calculated pursuant to Section 6.8.4 and multiplied by 1,000 to convert from GWh to MWh, multiplied by €2/MWh for the third Early Contribution Year; and
- (d) 100% of the Deemed Energy Quantity for one year of the ORESS 1 Project calculated pursuant to Section 6.8.4 and multiplied by 1,000 to convert from GWh to MWh, multiplied by €2/MWh, in equal monthly instalments for any subsequent Early Contribution Year until Commercial Operation of the relevant ORESS 1 Project occurs, (each payment above in Section 7.2.2(a) to (d) above being an “Early Contribution Payment”).

The Generator shall forthwith (and in any event no later than ten (10) Working Days after receiving a request in writing from the Minister) provide the Minister with such documents and records (including any reasonable supporting documents) as the Minister may request in writing from the Generator in relation to the calculations carried out by the Generator pursuant to this Section 7.2.2.

7.2.3 With effect from the date which is three years following the Commercial Operation Date for an ORESS 1 Project, the Generator for that ORESS 1 Project shall be entitled to offset the amount of any Early Contribution Payments paid by it in accordance with Section 7.2.2 against the amount of the ORESS 1 Annual CBF Contribution Payments to be paid by it under Section 7.2.1 (as such payments may be reconciled and adjusted pursuant to Section 7.2.1), subject to the following provisions:

- (a) in each 12 month period following the date which is three years from the date of Commercial Operation for an ORESS 1 Project (the "Relevant Year") the Generator for that ORESS 1 Project may offset Early Contribution Payments previously paid by it under Section 7.2.2 provided that the amount to be offset in the Relevant Year is not greater than 30% of the amount of the ORESS 1 Annual CBF Contribution Payment to be paid by the Generator in the Relevant Year under Section 7.2.1 (as such payments may be reconciled and adjusted pursuant to Section 7.2.1); and
- (b) the amount of Early Contribution Payments which have previously been paid by the Generator under Section 7.2.2 but which may not be offset by the Generator pursuant to Section 7.2.3(a) above may be offset by the Generator in the subsequent Relevant Year(s) against the amount of the ORESS 1 Annual CBF Contribution Payments to be paid by it under Section 7.2.1 (as such payments may be reconciled and adjusted pursuant to Section 7.2.1).

### **7.3 Fund Administrator**

7.3.1 Each Generator shall, prior to the establishment of the Community Benefit Fund under Section 7.2.1, select and appoint through an open competition or procurement process an ORESS 1 CBF fund administrator (the "Fund Administrator") to administer the Community Benefit Fund for the relevant ORESS 1 Project in accordance with these Terms and Conditions and the ORESS 1 CBF Rulebook. Further, each Generator shall:

- (a) ensure that such Fund Administrator (i) is independent from the Generator, is separately managed and governed and is not subject to the control of the Generator (whether by ownership of shares, the power to control or direct the management of the Generator or otherwise) and (ii) without prejudice to sub-Section 7.3.1(a)(i), is not an Affiliate, Connected Person or Principal Owner of the Generator and does not have the power to exercise control of the Generator (whether by ownership of shares, the power to control or direct the management of the Generator or otherwise);
- (b) ensure that the Fund Administrator appointed by it in accordance with this Section 7.3.1 has the requisite experience, skills, qualifications and competencies in order to perform its obligations as the administrator of the Community Benefit Fund for the relevant ORESS 1 Project in accordance with these Terms and Conditions, the ORESS 1 CBF Rulebook and all applicable laws;
- (c) procure that the Fund Administrator performs its obligations with respect to the relevant Community Benefit Fund (i) with all reasonable skill, care and diligence and (ii) in accordance with these Terms and Conditions, the ORESS 1 CBF Rulebook and all applicable laws;
- (d) procure that the Fund Administrator is selected and appointed in accordance with the ORESS 1 CBF Rulebook; and
- (e) ensure that a Fund Administrator is duly appointed and in place at all times during the administration of the Community Benefit Fund until the later of (i) the end of the ORESS 1 Support Period and (ii) the deployment of all funds in the Community Benefit Fund. For the avoidance of doubt, a termination of the appointment of a Fund Administrator shall not relieve the Generator of its obligations under this Section 7.3.1(e).

7.3.2 Each Generator shall establish (or shall procure that the Fund Administrator establishes) a local ORESS 1 Community Benefit Fund Committee (the “CBF Committee”). Each Generator shall procure that the CBF Committee established by it shall ensure (a) the successful operation and delivery of Community Benefit Funds for its relevant ORESS 1 Project and (b) community participation in fund decision making for the allocation of funds in the relevant Community Benefit Fund.

7.3.3 Each Generator shall register (or shall procure that the Fund Administrator registers) the Community Benefit Fund (including the name, address, company number (where applicable) and contact details for the Fund Administrator appointed by it), and

details of the CBF Committee with SEAI's CBF national register (the "SEAI CBF National Register") no later than 1 year after the Commencement Date for its relevant ORESS 1 Project.

7.3.4 If any information in SEAI CBF National Register in respect of the Community Benefit Fund, the Fund Administrator or the CBF Committee for an ORESS 1 Project becomes inaccurate or untrue in any respect, each Generator shall update (or shall procure that the Fund Administrator updates) such information as soon as practicable.

7.3.5 Each Generator shall procure that the Fund Administrator and CBF Committee appointed by it for the relevant ORESS 1 Project shall comply with (a) the ORESS 1 CBF Rulebook and (b) any reporting requirements as may be specified by SEAI from time to time.

7.3.6 Each Generator shall ensure that the CBF Committee established by it shall ensure that:

(a) all applications for funding under the Community Benefit Fund received by the CBF Committee are assessed in a fair, reasonable, non-discriminatory and transparent manner; and

(b) all funding from the Community Benefit Fund:

(i) is used for the sustainable environmental, economic, social and cultural well being of the local community for the ORESS 1 Project (as such local community for the relevant ORESS 1 Project shall be defined by the CBF Committee for that ORESS 1 Project in accordance with the ORESS 1 CBF Rulebook) (the "CBF Target Local Community"); and

(ii) is allocated by the relevant Fund Administrator for that ORESS 1 Project to the committees, clubs, associations, entities, corporates or any other persons or bodies who are authorised to represent or act for or on behalf of any such CBF Target Local Community and that are selected by the CBF Committee for funding from the relevant Community Benefit Fund; and

(c) due and careful consideration is given to funding opportunities for all stakeholders in the CBF Target Local Community, including, but not limited to, local fishers, seafood culture, tourism, the wider blue economy, and maritime heritage communities.

- 7.3.7 Each Generator shall, and shall procure that each of the Fund Administrator and the CBF Committee appointed by it shall, use their respective best endeavours to maximise the deployment of funds from the Community Benefit Fund for the relevant ORESS 1 Project to the CBF Target Local Community before the end of the ORESS 1 Support Period in respect of the ORESS 1 Project.
- 7.3.8 If, at the end of the ORESS 1 Support Period, there are funds remaining in the Community Benefit Fund then the Generator and the Fund Administrator shall (subject to Section 7.1.4) be entitled to continue to distribute funding from the Community Benefit Fund to the CBF Target Local Community, strictly subject to compliance with the requirements of this Section 7 and the ORESS 1 CBF Rulebook.
- 7.3.9 Each Generator acknowledges and agrees that the Minister (or his or her respective nominees or agents) has a right to request and to receive all documents and records in connection with the Community Benefit Fund established by a Generator for the relevant ORESS 1 Project for compliance with these Terms and Conditions and the ORESS 1 CBF Rulebook (including all documents and records demonstrating compliance by the Fund Administrator with these Terms and Conditions and the ORESS 1 CBF Rulebook).

#### **7.4 Prohibition on Security / Encumbrance over the Community Benefit Fund (or part of it)**

- 7.4.1 Each Generator hereby covenants that it shall not (and that it shall procure that the Fund Administrator and CBF Committee appointed by it shall not) at any time during the ORESS 1 Support Period (or during the time that Early Contribution Payments are made) for the relevant ORESS 1 Project:
- (a) create or permit to subsist any mortgage, charge, lien or any other security interest or encumbrance on or over the Community Benefit Fund or any part of it (or anything having a similar effect to any of the foregoing); and / or
  - (b) do, or cause or permit to be done, anything which may in any way depreciate, jeopardise or otherwise prejudice the value of the Community Benefit Fund.