

## Attachment 3

# AMENDMENTS TO THE ENERGY RETAIL CODE: STRENGTHENING PROTECTIONS FOR CUSTOMERS REQUIRING LIFE SUPPORT EQUIPMENT

DECEMBER 2019

Amendments made by the Essential Services Commission on 5 December 2019

## 1 Nature and commencement of this instrument

- (1) This instrument amends the *Energy Retail Code*.
- (2) This instrument comes into operation on 2 February 2020.

## 2 Table of amendments

- (1) Insert the following definitions in clause 3 in the appropriate alphabetical positions:

*confirmation reminder notice*—see clause 126(1)(b);

*deregister* means the updating of:

- (a) a retailer's registration of a customer's premises under clauses 125(1)(a) or 125(3) of this Code; or
- (b) a *distributor's* registration of a customer's premises under 5A.3.1(a) or 5A.3.2 of the *Electricity Distribution Code*;
- (c) a *distributor's* registration of a customer's premises under 4A.3(a)(i) or 4A.4 of the *Gas Distribution System Code*;

to remove, for that particular premises, registration of *life support equipment*.

*deregistration notice* means a written notice issued by a *retailer* or *exempt person* to inform a customer that their premises will cease to be registered as requiring *life support equipment* if the customer does not provide *medical confirmation* by the date specified in that deregistration notice;

***distributor*** means:

- (a) a person who holds a distribution licence under the *Electricity Industry Act* or in respect of those obligations under the *Electricity Distribution Code* which are not excluded under clause 1.3.5 of that Code, a person who is exempt from holding a distribution licence under the *Electricity Industry Act*; or
- (b) a person who holds a distribution licence under the *Gas Industry Act*;

***Electricity Distribution Code*** means the Code of that name made by the Commission under the *Electricity Industry Act 2000* (Vic) and *Essential Services Commission Act 2001* (Vic), as amended from time to time;

***exempt distributor*** means a person who is exempt from holding a licence under section 16 of the *Electricity Industry Act* to engage in certain activities as set out in clauses 6 and 7 of the *General Exemption Order* (deemed exemption of distributors and exemption of registered distributors);

***Gas Distribution System Code*** means the Code of that name made by the Commission under the *Gas Industry Act 2001* (Vic) and *Essential Services Commission Act 2001* (Vic), as amended from time to time;

***life support equipment*** means any of the following:

- (a) an oxygen concentrator;
- (b) an intermittent peritoneal dialysis machine;
- (c) a kidney dialysis machine;
- (d) a chronic positive airways pressure respirator;
- (e) crigler najjar syndrome phototherapy equipment;
- (f) a ventilator for life support; and
- (g) in relation to a particular *customer* – any other equipment (whether fuelled by electricity or gas) that a registered medical practitioner certifies is required for a person residing at the *customer's* premises for life support.

**Note:**

Schedule 10 contains information about life support equipment that may fall within sub-clause (g) of this definition.

***medical confirmation*** means certification in a *medical confirmation form* from a registered medical practitioner that a person residing or intending to reside at a customer's premises requires *life support equipment*;

*medical confirmation form* means a written form issued by a *retailer* or *exempt person* to enable the customer to provide *medical confirmation* to the *retailer* or *exempt person* respectively;

**(2) At clause 3B(2) delete the text and insert:**

- (2) This Code applies to, and must be complied with by, all *retailers* in accordance with their retail licences, in respect of their activities in relation to *small* customers and *exempt persons*.

**(3) At clause 3C(1)(c) delete the text and insert:**

- (c) the customer is competent to do so; and

**(4) At clause 16(1) delete the text and insert:**

- (1) This clause applies where a retailer is contacted by, or contacts, a small customer who is seeking to purchase energy for premises.

**(5) After clause 16(4) insert:**

- (5) By the time a *customer* enters into a new *market retail contract* or a new *standard retail contract* with a *retailer*, the *retailer* must ask the *customer* whether a person residing or intending to reside at the *customer's* premises requires *life support equipment*.

**(6) Application of this clause to standard retail contracts**

This clause applies in relation to *standard retail contracts*.

**(7) Application of this clause to market retail contracts**

This clause applies in relation to *market retail contracts*.

**(6) After clause 16 insert:**

**16A Pre-contractual duty of exempt persons**

- (1) By the time a *customer* enters into a new *exempt person arrangement* with an *exempt person*, the *exempt person* must ask the *customer* whether a person residing or intending to reside at the *customer's* premises requires *life support equipment*.
- (2) This clause applies to *exempt persons* in the following categories: VD2, VR2, VR3 and VR4.

- (6) In clause 123 delete the heading and text, and insert:

## **Division 1 – Retailer obligations**

### **123 Requirement**

- (1) A *retailer* is required to perform its obligations under this Part 7 in a way that promotes the objective of this Part.

- (7) In clause 124 delete the heading and text, and insert:

### **124 Objective**

- (1) The objective of Part 7 is to ensure that persons who require *life support equipment* receive the full protections of the life support provisions from when they first advise their *financially responsible retailer* or *distributor* that the premises require *life support equipment*. These protections apply until the premises is validly *deregistered*.

**Note:**

In addition to this Division, this Code contains life support provisions for *retailers* in clauses 3B, 16(5), and Division 4 of Schedule 3.

- (8) In clause 125 delete the heading and text, and insert:

### **125 Registration of life support equipment**

#### **(1) Retailer obligations when advised by customer**

When advised by a *customer* that a person residing or intending to reside at the *customer's* premises requires *life support equipment*, a *retailer* must:

- (a) within one *business day* from the latter of being advised by the *customer* or becoming the *financially responsible retailer* for the *customer's* premises, register that a person residing or intending to reside at the *customer's* premises requires *life support equipment* and the date from which the *life support equipment* is required;
- (b) determine whether the *life support equipment* is fuelled by both electricity and gas; and whether the *customer* has different retailers for electricity and gas. If so, the *retailer* must inform the *customer* that the *customer* should inform their other retailer that a person residing or intending to reside at the *customer's* premises requires *life support equipment*;

**Note:**

Where life support equipment is fuelled by both electricity and gas provided by the one *retailer*, the *retailer* has obligations under clause 125(1)(e).

From the *commencement date* to the *gas full commencement date*, the obligations of a gas retailer are set out in Schedule 3, Part 4, clauses 4 and 5.

- (c) subject to subclause (2), no later than 5 *business days* after the latter of receipt of advice from the *customer* or becoming the *financially responsible retailer* for the *customer's* premises, provide in writing to the *customer*, in plain English:
- (i) a medical confirmation form;
  - (ii) information explaining that, if the *customer* fails to provide *medical confirmation*, the *customer's* premises may be *deregistered* and, if so, the *customer* will cease to receive the protections under this Part;
  - (iii) if the *retailer* provides electricity to the customer, advice that there may be distributor planned interruptions under the *Electricity Distribution Code* or unplanned interruptions to the supply at the address and that the *distributor* is required to notify them of a distributor planned interruption under the *Electricity Distribution Code*;
  - (iv) if the *retailer* provides gas to the customer, advice that there may be distributor planned interruptions under the *Gas Distribution System Code* or unplanned interruptions to the supply at the address and that the *distributor* is required to notify them of a distributor planned interruption under the *Gas Distribution System Code*;
  - (v) information to assist the *customer* to prepare a plan of action in the case of an unplanned interruption;
  - (vi) an emergency telephone contact number for the *distributor* and the *retailer* (the charge for which is no more than the cost of a local call); and
  - (vii) advice that if the *customer* decides to change *retailer* at the premises and a person residing at the *customer's* premises continues to require *life support equipment*, the *customer* should advise their new *retailer* of the requirement for *life support equipment*;
  - (viii) information about the types of equipment that fall within the definition of *life support equipment*, and the additional information provided in Schedule 10 of this Code;

- (ix) advice that the *customer* may be eligible for concessions and rebates offered by the State or Federal governments, including information about how to access them; and
- (x) information in community languages about the availability of interpreter services for the languages concerned and telephone numbers for the services; and
- (d) subject to subclause (2), notify the *distributor* (within one *business day* from the latter of being advised by the *customer* or becoming the *financially responsible retailer* for the *customer's* premises) that a person residing or intending to reside at the *customer's* premises requires *life support equipment* and the date from which the *life support equipment* is required; and
- (e) where the *life support equipment* is fuelled by both electricity and gas provided by the one *retailer*, the *retailer* is required under clause 125(1)(d) to notify (within one *business day* from the latter of being advised by the *customer* or becoming the *financially responsible retailer* for the *customer's* premises) the *distributor* for both electricity and gas.
- (2) Subclauses (1)(c) (other than subclause (1)(c)(vi)) and (1)(d) do not apply to a *retailer* if:
  - (a) a *customer* of that *retailer* has previously advised the *distributor* for the premises that a person residing or intending to reside at the *customer's* premises requires *life support equipment*;
  - (b) the *customer* advises that *retailer* that they have already provided *medical confirmation* to the *distributor* for the premises; and
  - (c) the *retailer* confirms with the *distributor* for the premises that the *customer* has already provided *medical confirmation* to the *distributor*.

### **(3) Retailer obligations when advised by distributor**

When notified by a *distributor*:

- (a) under clause 5A.3.1(d) of the *Electricity Distribution Code*, a *retailer* must (within one *business day* from being notified by the *distributor*) register that a person residing or intending to reside at the *customer's* premises requires *life support equipment* and the date from which the *life support equipment* is required; and
- (b) under clause 5A.5.2 of the *Electricity Distribution Code*, a *retailer* must:
  - (i) within one *business day* from being notified by the *distributor*, register that a person residing or intending to reside at the *customer's* premises

requires *life support equipment* and the date from which the *life support equipment* is required; and

- (ii) no later than 5 *business days* after receipt of advice from the *distributor*, provide the *customer* with the information required by subclause 125(1)(c), if not already provided by the *retailer* to the *customer* in respect of the *customer's* premises.
- (c) under clause 4A.3(a)(iv) of the *Gas Distribution System Code*, a *retailer* must (within one *business day* from being notified by the *distributor*) register that a person residing or intending to reside at the *customer's* premises requires *life support equipment* and the date from which the *life support equipment* is required.

#### **(4) Retailer obligations when advised by exempt person**

When notified by an *exempt person* under clause 132(1)(d), the *retailer* must:

- (a) within one *business day* from being advised by the *exempt person*, register that a person residing or intending to reside within the exempt person's premises requires *life support equipment* and the date from which the *life support equipment* is required; and
- (b) within one *business day* from being notified by the *exempt person*, notify the licensed *distributor* that a person residing or intending to reside within the exempt person's premises requires *life support equipment* and the date from which the *life support equipment* is required.

#### **(5) Content of medical confirmation form**

A medical confirmation form must:

- (a) be dated;
- (b) state that completion and return of the form to the *retailer* will satisfy the requirement to provide *medical confirmation* under this Code;
- (c) request the following information from the *customer*:
  - (i) property address;
  - (ii) the date from which the *customer* requires supply of energy at the premises for the purposes of the *life support equipment*; and
  - (iii) *medical confirmation*;
- (d) specify the types of equipment that fall within the definition of *life support equipment*;

- (e) advise the date by which the *customer* must return the *medical confirmation form* to the *retailer*; and
- (f) advise the *customer* they can request an extension of time to complete and return the *medical confirmation form*.

**(6) Application of this rule to standard retail contracts**

This rule applies in relation to *standard retail contracts*.

**(7) Application of this rule to market retail contracts**

This rule applies in relation to *market retail contracts*.

**(9) In clause 126 delete the heading and text, and insert:**

**126 Reminders for confirmation of premises as requiring life support equipment**

- (1) Where a *medical confirmation form* is provided under clause 125, the *retailer* must:
  - (a) from the date of the *medical confirmation form*, give the customer a minimum of 50 business days to provide *medical confirmation*;
  - (b) provide the *customer* at least two written notices to remind the *customer* that the *customer* must provide *medical confirmation* (each a *confirmation reminder notice*);
  - (c) ensure the first *confirmation reminder notice* is provided no less than 15 *business days* from the date of issue of the *medical confirmation form*;
  - (d) ensure the second *confirmation reminder notice* is provided no less than 15 *business days* from the date of issue of the first *confirmation reminder notice*; and
  - (e) on request from a *customer*, give the *customer* at least one extension of time to provide *medical confirmation*. The extension must be a minimum of 25 *business days*.
- (2) A *confirmation reminder notice* must:
  - (a) be dated;
  - (b) state the date by which the *medical confirmation* is required;
  - (c) specify the types of equipment that fall within the definition of *life support equipment*; and



- (d) advise the *customer* that:
  - (i) the customer must provide *medical confirmation*;
  - (ii) the premises is temporarily registered as requiring *life support equipment* until the *medical confirmation* is received;
  - (iii) failure to provide *medical confirmation* may result in the premises being *deregistered*; and
  - (iv) the *customer* can request an extension of time to provide *medical confirmation*.

**(3) Application of this rule to standard retail contracts**

This rule applies in relation to *standard retail contracts*.

**(4) Application of this rule to market retail contracts**

This rule applies in relation to *market retail contracts*.

**(10) In clause 127 delete the heading and text, and insert:**

**127 Ongoing retailer obligations**

- (1) Where a *retailer* is required to register a *customer's* premises under subclause 125(1)(a) or 125(3), the *retailer* has the following ongoing obligations:
  - (a) within one *business day* from receipt, give the *distributor* relevant information about the *life support equipment* requirements for the *customer's* premises (including when the *customer* provides *medical confirmation* to the *retailer*) and any relevant contact details for the purposes of updating the *distributor's* registration under subclause 5A.3.1(a)(i) or 5A.3.2 of the *Electricity Distribution Code*, or clause 4A.3(a)(i) of the *Gas Distribution System Code*, unless the relevant information was provided to the *retailer* by the *distributor*;
  - (b) when advised by a *customer* or *distributor* of any updates to the *life support equipment* requirements for the *customer's* premises or any relevant contact details, update the *retailer's* registration, within one *business day* from receipt of the advice;
  - (c) not arrange for the *de-energisation* of the premises from the date the *life support equipment* will be required at the premises.
- (2) Where a *retailer* is required to register a *customer's* premises under subclause 125(4)(a), the *retailer* has the following ongoing obligations:

- (a) within one *business day* from receipt, give the *distributor* relevant information about the *life support equipment* requirements for the *customer's* premises and any relevant contact details for the purposes of updating the *distributor's* registration under subclause 5A.3.2(b) of the *Electricity Distribution Code*;
- (b) when advised by the *exempt person* of any updates to the *life support equipment* requirements for the *customer's* premises or any relevant contact details, update the *retailer's* registration, within one *business day* from receipt of the advice;
- (c) not arrange for the de-energisation of the premises from the date the *life support equipment* will be required at the premises.

**(3) Application of this rule to standard retail contracts**

This rule applies in relation to *standard retail contracts*.

**(4) Application of this rule to market retail contracts**

This rule applies in relation to *market retail contracts*.

**(11) In clause 128 delete the heading and text, and insert:**

**128 Deregistration of premises**

- (1) A *retailer* must not *deregister* a *customer's* premises except in the circumstances permitted under this clause 128.
- (2) If a *customer's* premises is *deregistered* by a *retailer*, the *retailer* must:
  - (a) within 5 *business days* of the date of *deregistration*, notify the *distributor* of the date of *deregistration* and reason for *deregistration*; and
  - (b) within one business day from *deregistration*, update its registrations under subclauses 125(1)(a) as required by clause 129.
- (3) If a *retailer* is notified by a *distributor* that the *distributor* has *deregistered* a *customer's* premises:
  - (a) under the *Electricity Distribution Code*, the *retailer* must (within one *business day* from notification) update its registrations under clause 125(3) as required by clause 129; or

- (b) under the *Gas Distribution System Code*, the *retailer* must (within one *business day* from notification) update its registrations under clause 125(3) as required by clause 129.
- (4) If a *retailer* is notified by an *exempt person* that the *exempt person* has *deregistered* a *customer's* premises under clause 135, the *retailer* must:
  - (a) within 5 *business days* of receipt of notification of *deregistration*, notify the *distributor* of the date of *deregistration* and reason for *deregistration*; and
  - (b) within one business day from *deregistration*, update its registrations under clause 125(4)(a) as required by clause 129.

**(5) Cessation of retailer obligations after deregistration**

The *retailer* obligations under clause 127 cease to apply in respect of a *customer's* premises once that *customer's* premises is validly *deregistered*.

**(6) Deregistration where medical confirmation not provided**

- (a) Where a *customer*, whose premises have been registered by a *retailer* under subclause 125(1)(a) (and for whom subclause 125(2) does not apply), fails to provide *medical confirmation*, the *retailer* may *deregister* the *customer's* premises only when:
  - (i) the *retailer* has complied with the requirements under clause 126;
  - (ii) the *retailer* has taken reasonable steps to contact the *customer* in connection with the *customer's* failure to provide *medical confirmation* in one of the following ways:
    - (A) in person;
    - (B) by telephone; or
    - (C) by electronic means;
  - (iii) the *retailer* has provided the *customer* with a *deregistration notice* no less than 15 *business days* from the date of issue of the second *confirmation reminder notice* issued under subclause 126(1)(d); and
  - (iv) the *customer* has not provided medical confirmation before the date for deregistration specified in the deregistration notice.

- (b) A deregistration notice must:
  - (i) be dated;
  - (ii) specify the date on which the *customer's* premises will be *deregistered*, which must be at least 15 *business days* from the date of the *deregistration notice*;
  - (iii) advise the *customer* the premises will cease to be registered as requiring *life support equipment* unless *medical confirmation* is provided before the date for *deregistration*; and
  - (iv) advise the *customer* that the *customer* will no longer receive the protections under this Part when the premises is *deregistered*.
- (c) A *retailer* may *deregister* a *customer's* premises registered under subclause 125(3) after being notified by the *distributor* that the *distributor* has *deregistered* the *customer's* premises pursuant to:
  - (i) clause 5A.6.5 of the Electricity Distribution Code; or
  - (ii) clause 4A.10 of the *Gas Distribution System Code*.

**(7) Deregistration where there is a change in the customer's circumstances**

Where a *customer* whose premises have been registered by a *retailer* under subclause 125(1)(a) or 125(3) advises the *retailer* that the person for whom the *life support equipment* is required has vacated the premises or no longer requires the *life support equipment*, the *retailer* may *deregister* the *customer's* premises:

- (a) on the date specified in accordance with subclause 128(7)(a)(i)(B) if:
  - (i) the *retailer* has provided written notification to the *customer* advising:
    - (A) that the *customer's* premises will be *deregistered* on the basis that the *customer* has advised the *retailer* that the person for whom the *life support equipment* is required has vacated the premises or no longer requires the *life support equipment*;
    - (B) the date on which the *customer's* premises will be *deregistered*, which must be at least 15 *business days* from the date of that written notification;
    - (C) that the *customer* will no longer receive the protections under this Part when the premises is *deregistered*; and

- (D) that the *customer* must contact the *retailer* prior to the date specified in accordance with subclause 128(7)(a)(i)(B) if the person for whom the *life support equipment* is required has not vacated the premises or requires the *life support equipment*; and
  - (E) the *customer* has not contacted the *retailer* prior to the date specified in accordance with subclause 128(7)(a)(i)(B) to advise that the person for whom the *life support equipment* is required has not vacated the premises or requires the *life support equipment*; or
  - (ii) on a date that is less than 15 *business days* from the date of written notification, if the *customer* or their authorised representative gives *explicit informed consent* to the *premises* being *deregistered* on that date.
- (b) *Explicit informed consent* is consent given by a *customer* to a *retailer* in accordance with the requirements of clause 3C(1)-(2).
  - (c) A *retailer* must create a record of each *explicit informed consent* provided by a *customer*, and retain the record for at least 2 years.
  - (8) A *retailer* may *deregister* a *customer's* premises after being notified by the *distributor* that the *distributor* has *deregistered* the *customer's* premises pursuant to:
    - (a) clause 5A.6.6 of the *Electricity Distribution Code*; or
    - (b) clause 4A.11 of the *Gas Distribution System Code*.
  - (9) A *retailer* may, at any time, request a *customer* whose premises have been registered under clause 125 to confirm whether the person for whom *life support equipment* is required still resides at the premises or still requires *life support equipment*.
  - (10) **Application of this rule to standard retail contracts**

This rule applies in relation to *standard retail contracts*.
  - (11) **Application of this rule to market retail contracts**

This rule applies in relation to *market retail contracts*.

(12) In clause 129 delete the heading and text, and insert:

**129 Registration and deregistration details must be kept by retailers**

A *retailer* must:

- (a) Establish policies, systems and procedures for registering and *deregistering* a premises as requiring *life support equipment* to facilitate compliance with the requirements in this Part.
- (b) Ensure that *life support equipment* registration and *deregistration* details maintained in accordance with clauses 125, 126, 127 and 128 are kept up to date, including:
  - (i) the date when the *customer* requires supply of energy at the premises for the purposes of the *life support equipment*;
  - (ii) when *medical confirmation* was received from the *customer* in respect of the premises;
  - (iii) the date when the premises is *deregistered* and the reason for *deregistration*; and
  - (iv) a record of communications with the *customer* required by clause 126 and 128.

(13) In clause 130 delete the heading and text, and insert:

**Division 2 Exempt person additional requirements (EPA)**

**130 Requirement**

An *exempt person* is required to perform its obligations under this Division 2 of Part 7 in a way that promotes the objective of this Division.

(14) In clause 131 delete the heading and text, and insert:

**131 Objective**

The objective of Division 2 of Part 7 is to ensure that persons who require *life support equipment* receive the full protections of the life support provisions from when they first advise their *exempt person* or *exempt distributor* that the premises requires *life support equipment*. These protections apply until the premises is validly *deregistered*.

**Note:**

In addition to this Division, this Code contains life support provisions for *exempt persons* in clauses 3B, 16A(1), and Division 4 of Schedule 3.

**(15) In clause 132 delete the heading and text, and insert:**

**132 Registration of life support equipment**

**(1) Exempt person obligations when advised by customer**

When advised by a *customer* that a person residing or intending to reside at the *customer's* premises requires *life support equipment*, an *exempt person* must:

- (a) within one *business day* from being advised by the *customer*, register that a person residing or intending to reside at the *customer's* premises requires *life support equipment* and the date from which the *life support equipment* is required;
- (b) determine whether the *life support equipment* is fuelled by both electricity and gas and whether the *customer* has a different gas retailer. If so, the *exempt person* must inform the *customer* that the *customer* should inform their gas retailer that a person residing or intending to reside at the *customer's* premises requires *life support equipment*;
- (c) no later than 5 *business days* after receipt of advice from the *customer*, provide in writing to the *customer*, in plain English:
  - (i) a *medical confirmation form*;
  - (ii) information explaining that, if the *customer* fails to provide *medical confirmation*, the *customer's* premises may be *deregistered* and, if so, the *customer* will cease to receive the protections under this Part;
  - (iii) advice that there may be *distributor* (including *exempt distributor*) planned interruptions under the *Electricity Distribution Code* or unplanned interruptions to the supply at the address and that the *distributor* (including *exempt distributor*) and *exempt person* is required to notify them of a distributor planned interruption under the *Electricity Distribution Code*;
  - (iv) information to assist the *customer* to prepare a plan of action in the case of an unplanned interruption;
  - (v) an emergency telephone contact number for the *exempt person*, any *exempt distributor*, and the *distributor* (the charge for which is no more than the cost of a local call);



- (vi) information about the types of equipment that fall within the definition of *life support equipment*, and the additional information provided in Schedule 10 of this Code;
  - (vii) advice that the *customer* may be eligible for concessions and rebates offered by the State or Federal governments, including information about how to access them; and
  - (viii) information in community languages about the availability of interpreter services for the languages concerned and telephone numbers for the services; and
- (d) if the *exempt person* purchases electricity to sell to the *customer* from a licensed *retailer*, notify the licensed *retailer* (within one *business day* from being advised by the *customer*) that a person residing or intending to reside at the *customer's* premises requires *life support equipment* and the date from which the *life support equipment* is required; and
  - (e) if the *exempt person* purchases electricity to sell to the *customer* and that electricity is distributed by an *exempt distributor*, notify the *exempt distributor* (within one *business day* from being advised by the *customer*) that a person residing or intending to reside at the *customer's* premises requires *life support equipment* and the date from which the *life support equipment* is required, unless the *exempt distributor* has already notified the *exempt person* under clause 5A.8.2(a)(ii) of the *Electricity Distribution Code*.

**(2) Exempt person obligations when advised by exempt distributor**

When notified by an *exempt distributor* under clause 5A.8.2(a)(ii) of the *Electricity Distribution Code* that a person residing or intending to reside at the *customer's* premises requires *life support equipment*, an *exempt person* must:

- (a) within one *business day* from being notified, register that a person residing or intending to reside at the *customer's* premises requires *life support equipment* and the date from which the *life support equipment* is required; and
- (b) no later than 5 *business days* after receipt of advice from the *exempt distributor*, provide the *customer* with the information required by subclause 132(1)(c); and
- (c) if the *exempt person* purchases electricity to sell to the *customer* from a licensed *retailer*, notify the licensed *retailer* (within one *business day* from being advised by *exempt distributor*) that a person residing or intending to reside at the *customer's* premises requires *life support equipment* and the date from which the *life support equipment* is required.



**(3) Content of medical confirmation form**

- (a) A *medical confirmation form* must:
- (i) be dated;
  - (ii) state that completion and return of the form to the *exempt person* will satisfy the requirement to provide *medical confirmation* under this Code;
  - (iii) request the following information from the *customer*:
    - (A) property address;
    - (B) the date from which the *customer* requires supply of energy at the premises for the purposes of the *life support equipment*; and
    - (C) *medical confirmation*;
  - (iv) specify the types of equipment that fall within the definition of *life support equipment*;
  - (v) advise the date by which the *customer* must return the *medical confirmation form* to the *exempt person*; and
  - (vi) advise the *customer* they can request an extension of time to complete and return the *medical confirmation form*.

**(16) In clause 133 delete the heading and text, and insert:**

**133 Reminders for confirmation of premises as requiring life support equipment**

- (1) Where a *medical confirmation form* is provided under clause 132, the *exempt person* must:
- (a) from the date of the medical confirmation form, give the customer a minimum of 50 business days to provide medical confirmation;
  - (b) provide the *customer* at least two written notices to remind the *customer* that the *customer* must provide *medical confirmation* (each a ***confirmation reminder notice***);
  - (c) ensure the first *confirmation reminder notice* is provided no less than 15 *business days* from the date of issue of the *medical confirmation form*;
  - (d) ensure the second *confirmation reminder notice* is provided no less than 15 *business days* from the date of issue of the first *confirmation reminder notice*; and

- (e) on request from a *customer*, give the *customer* at least one extension of time to provide *medical confirmation*. The extension must be a minimum of 25 *business days*.
- (2) A *confirmation reminder notice* must:
  - (a) be dated;
  - (b) state the date by which the *medical confirmation* is required;
  - (c) specify the types of equipment that fall within the definition of *life support equipment*; and
  - (d) advise the *customer* that:
    - (i) the customer must provide *medical confirmation*;
    - (ii) the premises is temporarily registered as requiring *life support equipment* until the *medical confirmation* is received;
    - (iii) failure to provide *medical confirmation* may result in the premises being *deregistered*; and
    - (iv) the *customer* can request an extension of time to provide *medical confirmation*.

**(17) In clause 134 delete the heading and text, and insert:**

**134 Ongoing exempt person obligations**

- (1) Where an *exempt person* is required to register a *customer's* premises under subclause 132(1)(a) or 132(2)(a), the *exempt person* has the following ongoing obligations:
  - (a) if the *exempt person* was required to give notice to a licensed *retailer* under clause 132(1)(d), the *exempt person* must, within one *business day* from receipt, give the licensed *retailer*:
    - (i) relevant information about the *life support equipment* requirements for the *customer's* premises and any relevant contact details for the purposes of updating the licensed *retailer's* registration under subclause 127(2)(b), unless the relevant information was provided to the *exempt person* by the licensed *retailer*; and
    - (ii) a copy of the customer's medical confirmation; and
  - (b) if the *exempt person* was required to give notice to an *exempt distributor* under clause 132(1)(e), the *exempt person* must give the *exempt distributor* (within

one *business day* from receipt) relevant information about the *life support equipment* requirements for the *customer's* premises (including when the customer provides *medical confirmation* to the *exempt person*) and any relevant contact details for the purposes of updating the *distributor's* registration under subclause 5A.8.2(b) of the *Electricity Distribution Code*, unless the relevant information was provided to the *exempt person* by the *exempt distributor*;

- (c) when advised by a *customer*, licensed *retailer*, or *exempt distributor* of any updates to the *life support equipment* requirements for the *customer's* premises or any relevant contact details, update the *exempt person's* registration, within one *business day* from receipt of the advice;
  - (d) not arrange for the *de-energisation* of the premises from the date the *life support equipment* will be required at the premises;
  - (e) when notified by a *distributor* about a planned interruption under clause 5.5.1(b) of the *Electricity Distribution Code*, provide the affected *customer* (within one *business day* from receipt of notification) with written notice.
- (2) The notice given under clause 134(1)(e) must:
- (a) specify the expected date, time and duration of the interruption; and
  - (b) include a 24-hour telephone number for fault enquiries and emergencies, the charge for which is no more than the cost of a local call.

**(18) In clause 135 delete the heading and text, and insert:**

**135 Deregistration of premises**

- (1) An *exempt person* must not *deregister* a *customer's* premises except in the circumstances permitted under this clause 135.
- (2) If a *customer's* premises is *deregistered* by an *exempt person*, the *exempt person* must within 5 *business days* update its registration under subclauses 132(1)(a) and 132(2)(a) as required by clause 136.
- (3) If no customer remains registered with an exempt person under this Part, the exempt person must within 5 business days notify:
  - (a) the licensed retailer; and
  - (b) any exempt distributor of the date of de-registration and the reason for de-registration.

**Cessation of exempt person obligations after deregistration**

- (4) The *exempt person* obligations under clause 134 cease to apply in respect of a *customer's* premises once that *customer's* premises is validly *deregistered*.

**(5) Deregistration where medical confirmation not provided**

- (a) Where a *customer* whose premises have been registered by an *exempt person* under subclause 132(1)(a) or 132(2)(a) fails to provide *medical confirmation*, the *exempt person* may *deregister* the *customer's* premises only when:
- (i) the *exempt person* has complied with the requirements under clause 133;
  - (ii) the *exempt person* has taken reasonable steps to contact the *customer* in connection with the *customer's* failure to provide *medical confirmation* in one of the following ways:
    - (A) in person;
    - (B) by telephone; or
    - (C) by electronic means;
  - (iii) the *exempt person* has provided the *customer* with a *deregistration notice* no less than 15 *business days* from the date of issue of the second *confirmation reminder notice* issued under subclause 133(1)(d); and
  - (iv) the *customer* has not provided medical confirmation before the date for deregistration specified in the deregistration notice.
- (b) A deregistration notice must:
- (i) be dated;
  - (ii) specify the date on which the *customer's* premises will be *deregistered*, which must be at least 15 *business days* from the date of the *deregistration notice*;
  - (iii) advise the *customer* the premises will cease to be registered as requiring *life support equipment* unless *medical confirmation* is provided before the date for *deregistration*; and
  - (iv) advise the *customer* that the *customer* will no longer receive the protections under this Part when the premises is *deregistered*.

**(6) Deregistration where there is a change in the customer's circumstances**

Where a *customer* whose premises have been registered by an *exempt person* under subclause 132(1)(a) or 132(2)(a) advises the *exempt person* that the person for whom the *life support equipment* is required has vacated the premises or no longer requires the *life support equipment*, the *exempt person* may *deregister* the *customer's* premises on:

- (a) the date specified in accordance with subclause 136(5)(a)(i)(B) if:
  - (i) the *exempt person* has provided written notification to the *customer* advising:
    - (A) that the *customer's* premises will be *deregistered* on the basis that the *customer* has advised the *exempt person* that the person for whom the *life support equipment* is required has vacated the premises or no longer requires the *life support equipment*;
    - (B) the date on which the *customer's* premises will be *deregistered*, which must be at least 15 *business days* from the date of that written notification;
    - (C) that the *customer* will no longer receive the protections under this Part when the premises is *deregistered*; and
    - (D) that the *customer* must contact the *exempt person* prior to the date specified in accordance with subclause 136(5)(a)(i)(B) if the person for whom the *life support equipment* is required has not vacated the premises or requires the *life support equipment*; and
    - (E) the *customer* has not contacted the *exempt person* prior to the date specified in accordance with subclause 136(5)(a)(i)(B) to advise that the person for whom the *life support equipment* is required has not vacated the premises or requires the *life support equipment*; or
  - (b) a date that is less than 15 *business days* from the date of written notification if the *customer* or their authorised representative gives *explicit informed consent* to the premises being *deregistered* on that date.
  - (c) *Explicit informed consent* is consent given by a *customer* to a *retailer* in accordance with the requirements of clause 3C(1)-(2)
  - (d) A *retailer* must create a record of each *explicit informed consent* provided by a *customer*, and retain the record for at least 2 years.
- (7) An *exempt person* may, at any time, request a *customer* whose premises have been registered under clause 132 to confirm whether the person for whom *life support*

*equipment* is required still resides at the premises or still requires *life support equipment*.

**(19) In clause 136 delete the heading and text, and insert:**

**136 Registration and deregistration details must be kept by exempt persons**

An *exempt person* must:

- (a) establish policies, systems and procedures for registering and *deregistering* a premises as requiring *life support equipment* to facilitate compliance with the requirements in this Part; and
- (b) ensure that *life support equipment* registration and *deregistration* details maintained in accordance with clauses 132, 133, 134 and 135 are kept up to date, including:
  - (i) the date when the *customer* requires supply of energy at the premises for the purposes of the *life support equipment*;
  - (ii) when *medical confirmation* was received from the *customer* in respect of the premises;
  - (iii) the date when the premises is *deregistered* and the reason for *deregistration*; and
  - (iv) a record of communications with the *customer* required by clause 133 and 135.

**(20) In clause 137 delete the heading and text, and insert:**

**137 Application of this Division to exempt persons**

- (1) This Division applies to *exempt persons* in the following *categories*:  
VD2, VR2, VR3 and VR4.

**(21) In Schedule 1, clause 6.3 delete the text, and insert:**

- (a) Before this contract starts, we were required to ask you whether a person residing or intending to reside at your premises requires *life support equipment*.
- (b) If a person living or intending to live at your premises requires *life support equipment*, you must:
  - (i) advise us that the person requires *life support equipment*;

- (ii) register the premises with us or your distributor; and
  - (iii) upon receipt of a *medical confirmation form*, provide *medical confirmation* for the premises.
- (c) Subject to satisfying the requirements in this Code, the *Electricity Distribution Code* or the *Gas Distribution System Code*, your premises may cease to be registered as having *life support equipment* if *medical confirmation* is not provided to us or your distributor.
- (d) You must tell us or your distributor if the *life support equipment* is no longer required at the premises.
- (e) If you tell us that a person living or intending to live at your premises requires *life support equipment*, we must give you:
- (i) at least 50 business days to provide *medical confirmation* for the premises;
  - (ii) general advice that there may be a *distributor planned interruption* or *unplanned interruption* to the supply of energy to the premises;
  - (iii) information to assist you to prepare a plan of action in case of an *unplanned interruption*; and
  - (iv) emergency telephone contact numbers.

**(22) In Schedule 1, insert in the ‘Simplified explanation of terms’ in alphabetical order:**

***distributor planned interruption*** means an *interruption* of supply planned in advance by a *distributor*, including for planned maintenance, repair or augmentation of the distribution system; or for installation of a new supply to another customer;

***gas full commencement date*** means 1 July 2020.

***gas retailer*** means a person who holds a retail licence under the *Gas Industry Act*;

***medical confirmation*** means certification in a *medical confirmation form* from a registered medical practitioner of the requirement for *life support equipment* at your premises; (including certification in a document other than the *medical confirmation form*);

***medical confirmation form*** means a written form issued by a *retailer* to enable the customer to provide medical confirmation to the *retailer*;



**(23) In Schedule 3, Part 4, after clause 2(2) insert**

- (3) An *existing life support customer* registered by a *retailer* under clause 2(1)(c) of Part 4 of Schedule 3 of this Code is taken from the *commencement date* to be registered under new clause 125(1)(a) of the *Amending Rule*.
- (4) From the *commencement date*, a *retailer* is required to comply with obligations under the Code that apply in respect of a *customer* registered under new clause 125(1)(a) of the *Amending Rule* in respect of an *existing life support customer*, except that:
  - (a) the application of clause 125(1)(c) of the *Amending Rule* is modified so that, by the *Notice Date*, the *retailer* must:
    - (i) if notified by the *distributor* that *existing medical confirmation* has been provided for the *existing life support customer*, provide in writing to the *existing life support customer* the information in clause 125(1)(c)(iii), and (v)-(x) of the *Amending Rule*;
    - (ii) if notified by the *distributor* that *existing medical confirmation* has not been provided for the *existing life support customer*, provide in writing to the *existing life support customer* the information in clause 125(1)(c) of the *Amending Rule*;
  - (b) sub-clause 125(1)(d)-(e), (3) and (4) of the *Amending Rule* do not apply;
- (5) *Retailers* must make the required alterations to their *standard retail contracts* by the *commencement date*.
- (6) Alterations made under subclause (5) must take effect on and from the *commencement date*.

**(24) In Schedule 3, Part 4, after clause 3(1) insert**

- (2) An *existing life support customer* registered by an *exempt person* under clause 3(1)(c) of Part 4 of Schedule 3 of this Code is taken from the *commencement date* to be registered under new clause 132(2)(a) of the *Amending Rule*.
- (3) From the *commencement date*, an *exempt person* is required to comply with obligations under the Code that apply in respect of a *customer* registered under new clause 132(2)(a) of the *Amending Rule* in respect of an *existing life support customer*, except that:
  - (a) the application of clause 132(2)(b) of the *Amending Rule* is modified so that, by the *Notice Date*, the *exempt person* must:



- (i) if notified by the *exempt distributor* that *existing medical confirmation* has been provided for the *existing life support customer*, provide in writing to the *existing life support customer* the information in clause 132(1)(c)(iii)-(vi) of the *Amending Rule*;
- (ii) if notified by the *distributor* that *existing medical confirmation* has not been provided for the *existing life support customer*, provide in writing to the *existing life support customer* the information in clause 132(1)(c) of the *Amending Rule*;
- (b) the application of clauses 132(2)(c) of the *Amending Rule* is modified so that notification to a licensed *retailer* is to be given by the *Notice Date*.

**(25) In Schedule 3, Part 4, after clause 3 insert:**

**4 Gas retailer obligations during preliminary stage for existing customers**

- (1) An *existing life support customer* who has been registered by a *gas retailer* is taken from the *commencement date* to be registered under new clause 125(1)(a) of the *Amending Rule*.
- (2) From the *commencement date* until the *gas full commencement date*, a *gas retailer* is required to comply with obligations under the Code that apply in respect of a *customer* registered under new clause 125(1)(a) of the *Amending Rule* in respect of an *existing life support customer*, except that:
  - (a) the application of clause 125(1)(c) of the *Amending Rule* is modified so that the *retailer* must:
    - (i) if *existing medical confirmation* has been provided for the *existing life support customer*, use best endeavours to provide in writing to the *existing life support customer* in a timely manner the information in clause 125(1)(c)(iii)-(x) of the *Amending Rule*;
    - (ii) if *existing medical confirmation* has not been provided for the *existing life support customer*, use best endeavours to provide in writing to the *existing life support customer* the information in clause 125(1)(c) of the *Amending Rule*;
  - (b) clause 125(1)(d) of the *Amending Rule* is modified so that the *gas retailer* must use best endeavours to notify the *distributor* in a timely manner;
  - (c) clause 125(1)(e) of the *Amending Rule* is modified so that the *gas retailer* must use best endeavours to notify the *distributors* in a timely manner;
- (3) *Retailers* must make the required alterations to their *standard retail contracts* by the *commencement date*.

- (4) Alterations made under subclause (5) must take effect on and from the *commencement date*.

**(26) In Schedule 3, Part 4, after clause 4 insert:**

**5 Other gas retailer obligations during preliminary stage**

From the *commencement date* to the *gas full commencement date*, a *gas retailer* is required to comply with obligations under the Code that apply in respect of a *customer* registered under new clause 125(1)(a) of the *Amending Rule*, except that:

- (a) clause 125(1)(a) of the *Amending Rule* is modified so that the *gas retailer* must use best endeavours to register the *customer* in a timely manner;
- (b) clause 125(1)(c) of the *Amending Rule* is modified so that the *gas retailer* must use best endeavours to provide the information to the *customer* in a timely manner;
- (c) clause 125(1)(d) of the *Amending Rule* is modified so that the *gas retailer* must use best endeavours to notify the *distributor* in a timely manner;
- (d) clause 125(1)(e) of the *Amending Rule* is modified so that the *gas retailer* must use best endeavours to notify the *distributor* in a timely manner;
- (e) clause 125(3)(c) of the *Amending Rule* is modified so that the *gas retailer* must use best endeavours to register the *customer* in a timely manner.
- (f) clause 127(1)(a) of the *Amending Rule* is modified so that the *gas retailer* must use best endeavours to notify the *distributor* in a timely manner
- (g) clause 127(1)(b) of the *Amending Rule* is modified so that the *gas retailer* must use best endeavours to update its register in a timely manner
- (h) clause 128(2)(b) of the *Amending Rule* is modified so that the *gas retailer* must use best endeavours to update its register in a timely manner
- (i) clause 128(3)(b) of the *Amending Rule* is modified so that the *gas retailer* must use best endeavours to update its register in a timely manner.

**(27) After Schedule 9 insert:**

**Schedule 10**

Life Support Equipment means any of the following:

- (a) an oxygen concentrator
- (b) an intermittent peritoneal dialysis machine

- (c) a kidney dialysis machine
- (d) a chronic positive airways pressure respirator
- (e) crigler najjar syndrome phototherapy equipment
- (f) a ventilator for life support
- (g) in relation to a particular *customer* – any other equipment (whether fuelled by electricity or gas) that a registered medical practitioner certifies is required for a person residing at the *customer's* premises for life support.

‘Other’ life support equipment may include, but is not limited to, the following:

- (i) external heart pumps
- (ii) respirators (iron lung)
- (iii) suction pumps (respiratory or gastric)
- (iv) feeding pumps (kangaroo pump, or total parenteral nutrition)
- (v) insulin pumps
- (vi) airbed vibrator
- (vii) hot water
- (viii) nebulizer, humidifiers or vaporizers
- (ix) apnoea monitors
- (x) medically required heating and air conditioning
- (xi) medically required refrigeration
- (xii) powered wheelchair.