

Embedded electricity networks: Exempt providers' obligations in Victoria

Commission Guidance

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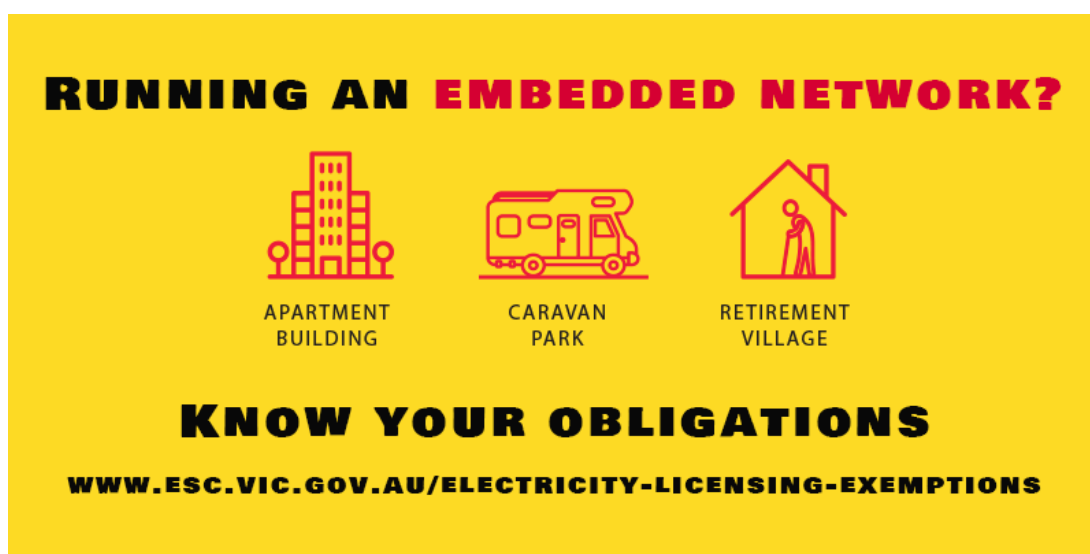
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1. Introduction

In Victoria, people engaged in a regulated activity involving energy need a licence from the Essential Services Commission. This relates to anyone who generates for supply or sale, transmission, or distribution of electricity, or the sale or supply of natural gas or operation of a natural gas distribution pipeline.

Engaging in such activities without a licence is prohibited unless the person has either been granted an exemption or is eligible for a general exemption that applies to a class of persons or activities.¹

This guide focuses on those persons who are eligible for a general exemption in relation to activities involving electricity (not natural gas²) in an embedded network³.



¹ Section 16 of the *Electricity Industry Act 2000 (EI Act)* requires a licence to engage in these activities. Section 17 of the EI Act authorises the granting of exemptions from s 16's licensure obligation. Similar provisions are provided for in sections 22 and 24 of the *Gas Industry Act 2001*.

² To date, there is no general exemption for any natural gas service requiring a licence and only four individual exemptions for natural gas providers have been issued to date.

³ Persons who have been granted an individual exemption should refer to the relevant order in council granting the exemption, including any terms and conditions of the exemption.

1.1. Embedded networks

Several exemptions covered by the general exemption order deal with electricity activities on embedded networks – namely the sale, distribution, and generation of electricity.

What is an embedded network?

Embedded networks are private electricity networks that are not part of the national energy market.

Electricity purchased on the national energy market is typically delivered to an embedded network via a 'parent' connection point (often referred to as a 'gate meter') and then on-sold or otherwise distributed to customers on the embedded network, usually through 'child' connection points (typically involving some form of meter).

While energy activities on the national electricity market are regulated by the commission in Victoria and federal regulators. Embedded networks in Victoria are largely regulated by the commission, either through licensure or the exemption framework.

Embedded networks are typically found in apartment buildings, shopping centres, airports, caravan parks, retirement or lifestyle villages, rooming houses, manufactured home estates and land lease parks.

1.2. General exemption order

Certain activities related to small-scale sale, distribution and generation of electricity are eligible for a general exemption from licence requirements under the General Exemption Order 2017.⁴

While persons covered by the general exemption order may be exempt from the legal requirement to have a licence, this does not mean that they are exempt from regulation. If you are covered by the general exemption order, you are still required to comply with a range of obligations which are further explained in this guide.

⁴ Published in Government Gazette, No S390 (15 Nov 2017). The general exemption order largely superseded an earlier general exemption order published in the Government Gazette, No S73, on 1 May 2002. The general exemption order revoked some of the 2002 order's provisions (namely clauses 5, 8 and Schedule A) and re-adopted, with amendments, several of the earlier order's other provisions (namely clauses 4, 6 and 7). In addition, Schedule B of the 2002 order, which granted individual exemptions to 11 specific persons, was left in place.

1.3. Categories of exemptions under the general exemption order

There are two broad categories of exemptions established in the general exemption order: ‘deemed’ exemptions and ‘registrable’ exemptions.

The first category ‘deems’ certain electricity activities to be exempt from licensure obligations. Those engaging in activities that are deemed exempt do not need to take any action to be exempt from holding a licence, as long as they comply with conditions specified in the order.

The second category of exemptions allows people engaging in certain electricity activities to become exempt upon registering each site of their activity with the commission. They will remain exempt so long as they comply with conditions specified in the order.

1.4. Purpose of this document

It is a condition of all retail and distribution exemptions covered by the general exemption order that the exempt person complies with either the provisions of the energy retail code or the electricity distribution code. These are specified by the commission to be applicable to an exempt person of a particular category or class.⁵ All people eligible for the general exemptions must comply with other conditions specified in the general exemption order.

The commission has produced this guide to assist people in the exempt categories covered by the general exemption order to understand their obligations under the following three instruments:

- The general exemption order⁶
- the energy retail code⁷
- the electricity distribution code.⁸

This guide will also assist customers of electricity providers covered by the order by helping them understand their rights and the services they are entitled to.

This guide seeks to identify the key obligations contained in the general exemption order. It is not a substitute for a detailed understanding of those obligations.

⁵ General exemption order, clause 8.

⁶ The General Exemption Order and amendments to that order made on 30 May 2019 and 9 July 2019 are available at: <https://www.energy.vic.gov.au/legislation/general-exemption-order>

⁷ The energy retail code is available at: <https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-policies-and-manuals/energy-retail-code>

⁸ electricity distribution code available at: <https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-policies-and-manuals/electricity-distribution-code>

It is important that electricity providers covered by the general exemption order understand and comply with the obligations they have under the general order, the energy retail code and/or the electricity distribution code, as varied from time to time. Where an exempt person has any questions about its obligations, they should seek expert technical and/or legal advice.

2. Overview of exemptions

The general exemption order outlines the ways in which a person may be exempt from having to get a licence for electricity generation, distribution or sale.

The general exemption order is an Order in Council made under section 17 of the Electricity Industry Act 2000. The order sets out the circumstances where a person may be exempt from the requirement to obtain a licence for the generation, distribution, or sale (i.e. retail) of electricity. Another category of exempt electricity provider is the 'multiple activity' category, which encompasses several different types of activity being provided as part of an integrated electricity service offering.

A total of 27 categories of person engaged in the provision of electricity service are eligible for either deemed or registrable exemption under the order: 12 categories each for retailers and distributors, plus one category of generator and two categories of multiple activity.

2.1. Retail exemptions

Retail activity deemed exemptions

The general exemption order sets out seven categories of deemed exemptions for retail electricity activities, as set out in [Table 1](#).

Table 1: Retail activity deemed exemption categories covered by the order

Retail activity deemed exemption	Retail Code category ⁹
Persons selling metered electricity to fewer than 10 small commercial/retail customers within the limits of a site that they own, occupy or operate.	VD1
Persons selling metered electricity to fewer than 10 residential customers within the limits of a site that they own, occupy or operate (excluding retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates).	VD2
Persons selling metered electricity to occupants of holiday accommodation on a short-term basis (excluding caravan parks,	VD3

⁹ See Schedule 8 of the energy retail code.

holiday parks, residential land lease parks and manufactured home estates).	
Persons temporarily selling electricity on construction sites, where the sale is an incidental supply to facilitate bona fide construction and commissioning of new facilities on the same or an adjoining site.	VD4
Persons selling electricity to a related company	VD5
Persons selling electricity on or within the person's premises to customers in conjunction with, or ancillary to, the provision of telecommunications services. Includes internet, telephone, mobile phone, fibre optic, hybrid fibre cable, television, radio, Wi-Fi or other communications technology	VD6
Government agencies selling metered electricity to non-residential customers for purposes that are ancillary to their primary functions or objectives under the laws under which they are established.	VD7

Persons carrying out these activities are exempt from the requirement to be licensed in respect of that activity where the following conditions are satisfied:

- the electricity the person sells is obtained by the person as the customer of a licensed retailer
- where metered electricity is sold, the premises of each customer is separately metered.¹⁰

Only categories VD1– VD3 and VD7 involve the sale of metered electricity, therefore requiring each customer's premises to be separately metered. Categories VD4 – VD6 involve unmetered electricity and there is no separate metering requirement for the retailer's activities.

The general exemption order defines some terms relevant to retail deemed exemptions, including:

- A 'small commercial/retail customer' is defined to mean a business customer to whom peak demand of less than 500 kVA, and consumption of less than 160 MWh per annum, is distributed, supplied or sold for commercial or industrial purposes.¹¹
- A 'residential customer' is defined to mean a person who buys electricity principally for personal, household or domestic use at premises.¹²

¹⁰ General exemption order, clause 4(1). The general exemption order does not cover selling unmetered electricity in respect of the activities with which this guide is concerned. The selling of unmetered electricity would require an electricity licence, unless those activities came within exemption categories VD4–VD6 or, possibly, one of the distribution exemption categories discussed in section 2.2 of this guide.

¹¹ General exemption order, clause 3 (Definitions), definition of "small commercial/retail customer".

¹² General exemption order, clause 3 (Definitions), definition of "residential customer".

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Retail activity registration exemptions

The general exemption order identifies five categories of retailers eligible for exemption from the requirement to obtain a licence, provided they register with the commission. These exemptions apply where there is a sale of metered electricity and:

- the person is the customer of a licensed retailer
- the premises of each customer are separately metered.¹³

The five 'registrable' exemption categories for retail activities are set out in Table 2.¹⁴

Table 2: Retail activity registration exemption categories covered by this guide

Retail activity registration exemption	Retail Code category
Persons selling metered electricity to 10 or more small commercial/retail customers within the limits of a site that they own, occupy or operate.	VR1
Persons selling metered electricity to 10 or more residential customers within the limits of a site that they own, occupy or operate, excluding sales to residents of retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates.	VR2
Retirement villages selling metered electricity to residential customers within the limits of a site that they own, occupy or operate.	VR3
Persons selling metered electricity in all caravan parks, holiday parks, residential land lease parks and manufactured home estates.	VR4
Persons selling metered electricity to large customers	VR5

Persons eligible for exemption under these five categories may register with the commission via its online registration portal: <https://www.esc.vic.gov.au/electricity-and-gas/electricity-and-gas-licences-and-exemptions/electricity-licensing-exemptions>

2.2. Network exemptions

Network activity deemed exemptions

Distributors carrying out activities described in these exemption categories are exempt from the requirement to obtain a licence if:

- the person is not a licensed distribution company

¹³ General exemption order, clause 5(1) (Exemption of registered retailers). Unlike 'deemed' retailers, there is no situation contemplating the sale of electricity on an un-metered basis.

¹⁴ Other exemption categories exist: see general exemption order, clause 5(2) (Exemption of registered retailers).

- the electricity is supplied through facilities of the person after it leaves a supply facility owned or operated by a licensed distribution company and before it is supplied to the customer.¹⁵

The seven categories of deemed exemptions relating to the distribution of electricity are set out in [Table 3](#).

Table 3: Network activity deemed exemption categories

Network activity deemed exemption	Category
Persons supplying metered or unmetered electricity to fewer than 10 small commercial/retail customers within the limits of a site that they own, occupy or operate.	VND1
Persons supplying metered or unmetered electricity to fewer than 10 residential customers within the limits of a site that they own, occupy or operate, excluding supply to residents of retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates.	VND2
Persons supplying metered or unmetered electricity to occupants of holiday accommodation on a short-term basis (excluding caravan parks, holiday parks, residential land lease parks and manufactured home estates).	VND3
Persons supplying electricity via plug-in or rack mounted equipment in any premises, where there is National Broadband Network equipment with an input current rating not exceeding 3 amps alternating current.	VND4
Persons supplying metered or unmetered electricity to a related company.	VND5
Persons supplying electricity to or within the person's premises in conjunction with, or ancillary to, or to facilitate, the provision of telecommunications services. Includes internet, telephone, mobile phone, fibre optic, hybrid fibre cable, television, radio, Wi-Fi or other communications technology.	VND6
Government agencies supplying metered or unmetered electricity to non-residential customers for purposes that are ancillary to their primary functions or objectives under the laws under which they are established.	VND7

Network activity registration exemptions

The general exemption order establishes five categories of registrable distribution activities. For all five categories, the following requirements apply:

- the person is not a licensed distribution company

¹⁵ General exemption order, clause 6(1).

- the electricity is supplied through facilities of the person after it leaves a supply facility owned or operated by a licensed distribution company and before it is supplied to the customer.¹⁶

The five categories of ‘registrable’ exemption for distribution companies are set out in [Table 4](#).

Table 4: Network activity registration exemption categories covered by this guide

Network activity registration exemption	Category
Persons supplying metered or unmetered electricity to 10 or more small commercial/retail customers within the limits of a site that they own, occupy or operate.	VNR1
Persons supplying metered or unmetered electricity to 10 or more residential customers within the limits of a site that they own, occupy or operate excluding supply to residents of retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates.	VNR2
Retirement villages supplying metered or unmetered electricity to residential customers within the limits of a site that they own, occupy or operate.	VNR3
Persons supplying metered or unmetered electricity in caravan parks, holiday parks, residential land lease parks and manufactured home estates.	VNR4
Persons supplying metered electricity to large customers.	VNR5

2.3. Other categories of exempt activity

Three other categories of activity that would otherwise require a licence also fall within the scope of the general exemption order: one category of generation activity which is deemed exempt and two categories of ‘multiple activity’ exemptions, both of which are ‘registrable’.

Deemed exemption for electricity generation

The following category of electricity generation is ‘deemed’ exempt from licensure, provided the generation is **not** required to be centrally dispatched under the National Electricity Rules¹⁷:

Table 5: Deemed exemption for electricity generation

Generation activity deemed exemption	Category
Persons generating electricity for supply or sale where the total output by that person (whether or not with another person), using a generator or generators connected to the transmission network or distribution network at a common point, is less than 30 MW.	[None]

¹⁶ General exemption order, clause 7(1).

¹⁷ General exemption order, clause 13.

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Multiple activity registration exemptions

Two categories of ‘registrable’ exemption are created in the general exemption order for persons engaged in an activity that involves all of the following: generation, distribution and sale of electricity.¹⁸ The general exemption order provides two examples of such multiple activities that would be eligible to register as exempt:

- A solar power purchase agreement under which a business provides, installs and maintains, at no initial cost, a solar panel system to a customer and in exchange, the customer buys the electricity provided by the solar panels for an agreed price and for an agreed period. Any electricity that is not used is sold to a licensed retailer.
- A community energy project under which a community group initiates, develops, operates and benefits from a renewable energy resource or energy efficiency initiative.

The two categories of ‘registrable’ exemption for multiple activities are set out in [Table 6](#)

Table 6: Multiple activity registration exemption

Multiple activity registration exemption	Reference/category
Persons:	[None]
(a) generating or distributing electricity on: (i) premises not owned or occupied by the person; or (ii) a portion of premises occupied by the person for the purpose of the generation and distribution, where the premises are not owned by the person and the remainder of the premises is not occupied by the person	
(b) supplying or selling the electricity: (i) to the owner or occupier of the premises on which the generation occurs (the customer); or (ii) to a licensed retailer.	

2.4. ‘Owns, occupies or operates’ the site

Several categories of retailer¹⁹ and distributor²⁰ exemptions under the general exemption order (specifically limit eligibility for an exemption from licensure to persons who ‘own, occupy or operate’ the site of an embedded network. For example, the registrable exemption category VR1 provides

¹⁸ General exemption order, clause 17

¹⁹ Specifically, retailer categories VD1, VD2, VR1, VR2 and VR3.

²⁰ Distributor categories VND1, VND2, VNR1, VNR2 and VNR3.

an exemption for 'Persons selling metered electricity to 10 or more small commercial/retail customers within the limits of a site that they own, occupy or operate'.

To be eligible for an exemption under these categories the retailer or distributor must 'own, occupy or operate' the site where electricity is sold or supplied to customers. Ownership or operation of an electricity network, or elements of a network, alone will not suffice to entitle the person to be covered by the general exemption order.

2.5. Registration of sites with multiple addresses, exempt activities

Some sites where exempt electricity activities occur are quite large, such as office or apartment buildings that extend over a large part of a block. The building may have customers with multiple addresses on different streets and yet the customers' premises are located within the same site.

Persons eligible for a registrable exemption for electricity services provided at such sites should register all addresses associated with the site they own, occupy or operate. This will ensure that customers whose premises are located within such a site can identify that their service provider holds a registered exemption from licensure.

Similarly, providers of electricity service covered by more than one category of exemption – for example, a person who both sells and distributes electricity to customers on an embedded network – should register with the commission as both an exempt seller and an exempt distributor.

3. Exempt retailer obligations

Under the General Exemption Order 2017, both deemed and registrable electricity retail activities must comply with several conditions.

These include the energy retail code, maximum price, customer dispute resolution and the provision of information.

3.1. The energy retail code

As previously noted, all exempt retailers must comply with any provisions of the energy retail code specified as applicable to them. The energy retail code sets out the rules that retailers must follow when selling energy to Victorian customers. It covers several important areas, including but not limited to:

- explicit informed consent²¹
- customer contracts
- billing disputes
- life support obligations
- payment difficulties
- other billing obligations, including the content of bills and payment methods.

Several code's provisions are specified as being applicable to one or more of the exempt retailer categories identified in the general exemption order. The exempt categories identified in the order are classified in schedule 8 of the code by category (reflecting those categories in the tables in this guide).

Appendix 1 to this guide contains further information on the requirements of the code.²²

²¹ General exemption order, clause 9 also contains specific obligations in relation to the obtaining of explicit informed consent from a customer that are independent of any explicit informed consent provisions in the Code that apply.

²² Exempt retailers are also required to comply with the electricity distribution code, but this has less application to an exempt retailer's activities; General exemption order, clause 6.

3.2. Maximum pricing

Clause 10 of the order provides that the price(s) at which electricity (and related services) are provided must not exceed the relevant maximum price formulated by the commission and published on its website.

From 1 September 2020, the maximum price for residential and small business customers (those consuming no more than 40 megawatt hours of electricity per year) within embedded networks will be set at the level of the Victorian default offer.

The circumstances in which a retailer may levy a charge on its customers, in addition to any charge relating to the sale of electricity, is limited and addressed in appendix 1 at clause 6.5.

More information about maximum embedded network pricing is available on the commission's website: <https://www.esc.vic.gov.au/electricity-and-gas/prices-tariffs-and-benchmarks/embedded-network-tariffs-including-caravan-parks/maximum-electricity-prices-embedded-networks-and-other-exempt-sellers-review-2020>

3.3. Customer dispute resolution

All exempt retailers, whether deemed or registrable, must enter a customer dispute resolution scheme approved by the commission.²³ Such a scheme provides customers with access to an external and independent dispute resolution body. To date, the only scheme approved by the commission is the scheme operated by the Energy and Water Ombudsman (Victoria).²⁴

The ombudsman requires retailers to pay a one-time fee to join the scheme and then ongoing annual membership fees. These fees vary based on the number of customers served and are subject to change. The table below sets the ombudsman's membership fees as at September 2020.

Customers	Annual levy	Start-up levy
<100	\$100	\$270

²³ General exemption order, clause 11.

²⁴ Essential Services Commission, Approval of a Customer Dispute Resolution Scheme for the purposes of the General exemption order 2017, 19 March 2018. See: <https://www.esc.vic.gov.au/sites/default/files/documents/Approval-of-a-dispute-resolution-scheme-for-the-purposes-of-the-General-Exemption-Order-2017-EWOV-20170226.pdf>.

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100 to 500	\$350	\$960
>500	\$1,000	\$2,700

The ombudsman has information about embedded networks, its fees and application process on its website: <https://www.ewov.com.au/companies/embedded-networks>

3.4. Provision of information

All exempt retailers must provide any information requested by the Minister or the commission, which information is reasonably required for the administration of the order.²⁵

²⁵ General exemption order, clause 12.

4. Exempt distributor obligations

Under the general exemption order, both deemed and registrable electricity network activities must comply with a number of conditions.

4.1. The electricity distribution code

As with exempt retailers, the general exemption order conditions all distributor exemptions on compliance with specified provisions of the electricity distribution code.

The specified provisions of the distribution code apply equally to both deemed and registrable exempt distributors. These provisions cover several important areas, including but not limited to:

- quality of supply
- connection to supply
- interruption of supply
- protection of supply to life support equipment
- disconnection
- confidential information.

Appendix 2 to this guide contains further information on the requirements of the code.²⁶

4.2. Maximum pricing

Clause 10 of the order provides that the price(s) at which electricity (and related services) are provided must not exceed the relevant maximum price formulated by the commission and published on its website. At present, the commission has not published a maximum price for electricity distributors.

From 1 September 2020, the maximum price for residential and small business customers (those consuming no more than 40 megawatt hours of electricity per year) within embedded networks will be set at the level of the Victorian default offer.

²⁶ Exempt distributors are also required to comply with the electricity distribution code, but this has less application to an exempt retailer's activities; General exemption order, clause 6.

4.3. Customer dispute resolution

All exempt distributors, whether deemed or registrable, must enter a customer dispute resolution scheme approved by the commission.²⁷ Such a scheme provides customers with access to an external and independent dispute resolution body.

As noted in section 3.3 of this guide, the only scheme currently approved by the commission is the scheme operated by the ombudsman.²⁸

The ombudsman requires distributors to pay a one-time fee to join the scheme and then ongoing annual membership fees. These fees vary based on the number of customers served and are subject to change. The table below sets out the ombudsman's fees, as at September 2020.

Customers	Annual levy	Start-up levy
<100	\$100	\$270
100 to 500	\$350	\$960
>500	\$1,000	\$2,700

The ombudsman has information about embedded networks, its fees and application process on its website: <https://www.ewov.com.au/companies/embedded-networks>

4.4. Provision of information

All exempt distributors must provide any information requested by the Minister or the commission, which information is reasonably required for the administration of the order.²⁹

²⁷ General exemption order, clause 11.

²⁸ Essential Services Commission, Approval of a Customer Dispute Resolution Scheme for the purposes of the General exemption order 2017, 19 March 2018. See: <https://www.esc.vic.gov.au/sites/default/files/documents/Approval-of-a-dispute-resolution-scheme-for-the-purposes-of-the-General-Exemption-Order-2017-EWOV-20170226.pdf>.

²⁹ General exemption order, clause 12.

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5. Other exempt person obligations

There are other types of electricity provider are eligible for exemption from the law's licensure requirement, namely certain small-scale electricity generators and those engaged in multiple electricity activities that provide an integrated service in limited circumstances.

5.1. Exempt electricity generators

As noted in section 2.3, there is one category of electricity generation activity that is deemed exempt by the order, namely small-scale (i.e., total output <30 megawatt hours) generators connected either to a transmission or distribution network at a common point.

The conditions of exemption that apply to this category of exempt generators are:

- the total exported output must be supplied or sold to a licensed retailer
- the exempt generators are subject to compliance with provisions of the distribution code specified by the commission³⁰
- the provision of information to the Minister or commission, when and as requested, reasonably required for administration of the order.

5.2. Exempt multiple activity providers

The other two categories of exemption provided for in the order, both registrable, apply to persons engaged in multiple electricity activities that deliver an integrated service. These two categories are described in more detail in section 2.3 above.

Conditions of exemption that apply to this category set out at clauses 18 to 25 of the General Exemption Order 2017.

³⁰ No provisions of the electricity distribution code are currently specified as applying to exempt electricity generators.

6. Non-compliance and other matters

There are several important compliance issues of which persons holding, or wishing to hold, an exemption under the General Exemption Order 2017 should be aware.

6.1. Non-compliance with conditions of exemption

As outlined above, every category of exemption holder under the order, both deemed and registrable exemption holders, is obliged to comply with a range of conditions. The consequences of failing to comply with these conditions vary, depending on whether the exemption holder is in a 'deemed' or 'registrable' exemption category.

Deemed exemption holders

If a person is deemed exempt and fails to comply with the applicable conditions, that person no longer qualifies to be deemed exempt. This means that any further engaging in the relevant electricity activity (i.e., retail, distribution, generation) will be in contravention of section 16 of the Electricity Industry Act 2000. Enforcement action for contravention of that provision of the legislation may then follow.

Registrable exemption holders

For those persons who have registered with the commission under one of the registrable exemption categories, failure to comply with the general exemption order may result in the commission notifying the exemption holder of its non-compliance with the relevant condition(s) of the general exemption order.

Depending on the nature of the non-compliance, the commission may give the exemption holder a reasonable period of time to take specified actions to ensure compliance with the order's conditions and to confirm those actions to the commission. If the registrable exemption holder fails to take the actions specified or fails to take them within the time allowed in the commission's notice, the commission will de-register the exempt person.

Once de-registered, any further engaging in the relevant activities will be in contravention of section 16 of the Electricity Industry Act. Enforcement action for contravention of that provision of the legislation may then follow.

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Enforcement

A contravention of section 16 of the Electricity Industry Act is a significant offence and attracts a penalty of 1000 penalty units upon the issuance of a notice of contravention served on the person by the commission. In addition, a contravention of section 16 attracts a continuing, daily penalty of 100 penalty units for each day after the day on which a notice of contravention is served on the person until the penalty is discharged (either by payment or judicial order). These are significant penalties under the energy legislation enforced by the commission.³¹

Failure to provide information

All categories of electricity activity covered by the order require an exemption holder to comply with a reasonable request for information from the commission or Minister. Failure to comply with a request for information would contravene the relevant condition of the General Enforcement Order and could result in the enforcement actions outlined in the preceding paragraphs.

The commission may also require an exempt person to provide information by serving a notice pursuant to section 37 of the Essential Services Commission Act 2001. A person who fails, without lawful excuse, to comply with any requirement of a formal notice to provide information is guilty of an offence that attracts a penalty of 120 penalty units. In addition, section 37(6) of the Essential Services Commission Act makes it a separate offence for a person to knowingly give the Commission information that is false or misleading in response to a notice issued under section 37 of the Essential Services Commission Act. The penalty for doing so is either a fine of 120 penalty units or up to six months' imprisonment.

³¹ As of 1 July 2020, 1 penalty unit is fixed at \$165.22. Accordingly, a contravention of section 16 of the EI Act attracts a maximum penalty of \$165,220, together with a continuing daily penalty of up to \$16,522 for each day the contravention continues after service of the notice of contravention.

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Appendix 1: Energy retail code

6.1. Overview

This Appendix is relevant to the following categories of retail exemptions: VD1, VD2, VR1, VR2, VR3 and VR4. These exemption categories include embedded electricity networks found in premises such as apartment buildings, caravan parks, manufactured home estates, lifestyle villages, retirement villages, shopping centres and rooming houses.

This Appendix provides an overview of some important obligations in the energy retail code. This guidance is not a substitute for a detailed understanding of those obligations. Where an exempt retailer has any questions about its obligations it should seek expert technical and/or legal advice.

6.1. General obligations

6.1.1. Explicit informed consent

There are a number of obligations under the energy retail code that use the concept of **explicit informed consent**.³² [Box 1](#) below sets out the circumstances in which explicit informed consent will be considered to have been given by a customer.

Box 1: Explicit informed consent

Explicit informed consent is given by a small customer to a retailer where:

- the retailer (or a person acting on the retailer's behalf) has clearly, fully and adequately disclosed in plain English all matters relevant to the customer's consent, including each specific purpose or use of the consent
- the customer gives consent to the arrangement or transaction:
 - in writing, signed by the customer
 - verbally, if the verbal consent is given such that it can be verified and recorded, or
 - by electronic communication generated by the customer
- the person giving the consent is competent to do so

³² See energy retail code, clauses 3C (Explicit informed consent) and 3D (Record of explicit informed consent).

- any other requirements prescribed by the energy retail code have been complied with.

Records of informed consent must be kept for at least two years. The records must contain sufficient detail so the commission can verify whether you have complied with the informed consent obligations. If a customer requests a copy of a record of informed consent, you must provide it to the customer free of charge.³³

6.1.2. Giving of notice

Where the energy retail code requires or permits you to give a notice or document to another person, you can do this by:

- giving it to the person personally
- sending it by post or fax, or leaving it at the person's address or place of business; or
- sending it to them electronically, but only where the customer has given explicit informed consent to receiving the material electronically.³⁴

Where you are giving a notice or document to a body corporate, you can do this by:

- leaving it at the registered office or place of business of the body corporate;
- sending it by post or fax to the body corporate's registered office or place of business; or
- sending it to the body corporate electronically.³⁵

6.2. Entering into arrangements for the sale of electricity

You are required to obtain a customer's explicit informed consent to an arrangement for the sale of electricity. Before obtaining the explicit informed consent of a customer in respect of that arrangement, you must provide them with the information set out in [Box 2](#) below.³⁶

The commission has developed a template of the information in box 2 to assist you in providing the required information to customers. You can access the template on the commission's website:

<https://www.esc.vic.gov.au/sites/default/files/documents/Sale%20and%20supply%20agreement%20for%20embedded%20networks.pdf>

³³ Energy retail code, clause 3D (Record of explicit informed consent).

³⁴ Energy retail code, clause 3F(1)(a) (Giving of notices and other documents under this code).

³⁵ Energy retail code, clause 3F(1)(b) (Giving of notices and other documents under this code).

³⁶ General exemption order, clause 9 (Informed consent and provision of information).

Box 2: Information you must provide to a customer before obtaining consent to an arrangement for the sale of electricity

Before obtaining a customer's explicit informed consent to an arrangement for the sale of electricity you must provide them with the following information in plain English:

- That the customer has a right to elect to purchase electricity from a licensed retailer of their choice, and information on the options for metering that would allow this choice.
- That you are not subject to all of the obligations of a licensed retailer and the customer will not receive the same protections as it would if it were purchasing from a licensed retailer.
- The customer's rights in relation to dispute resolution including:
 - your contact details as the initial point of contact for disputes
 - your procedures for handling disputes and complaints (see section 3.19 below) and
 - the right that the customer has to access an external dispute resolution service approved by the commission (see section 3.20 below).
- The forms of assistance available if the customer is unable to pay electricity bills as a result of financial difficulty and how to access those forms of assistance (see section 3.14 below).
- The electricity tariffs and all associated fees and charges that apply to that customer in relation to the sale of electricity.
- The flexible payment options available to the customer in relation to the sale of electricity—such as periodic instalments.
- Contact numbers in the event of an electricity fault or emergency.

You are also required to provide the information in [Box 2](#) to your customers annually or at any time requested by the customer or the commission.³⁷

³⁷ General exemption order, clause 9(3) (Informed consent and provision of information).

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6.3. Terms and conditions of arrangements for the sale of electricity

There are several minimum requirements that apply to the terms and conditions of the arrangements between you and your customers.³⁸

First, in arrangements with customers, you must set out all of the tariffs and charges that they may be required to pay.³⁹

Second, you must give notice to your customers of any change in tariffs and charges that they pay. This notice must be given as soon as practicable but must be no later than the customer's next bill.⁴⁰

6.4. Cooling-off period and right of withdrawal

A customer may withdraw from their contract with you for the sale of electricity within 10 business days from the date they entered into that arrangement.⁴¹ It does not matter if the customer agreed to enter into that arrangement with you—they are still permitted to withdraw within that time period.⁴² They can do this by either telling you that they are withdrawing from that arrangement or by writing to you.⁴³

You are required to include in your arrangements with customers a provision that sets out the right of the customer to withdraw from their arrangement with you and how they may do that.⁴⁴ You are required to keep a record of each withdrawal and to keep that record for at least two years.⁴⁵

6.5. Additional retail charges

The circumstances in which you can levy a charge on your customers, in addition to any charge relating to the sale of electricity, are limited. You may only levy an additional charge where the energy retail code expressly permits you to do so.⁴⁶

³⁸ Energy retail code, clause 46 (Tariffs and charges).

³⁹ Energy retail code, clause 46(2) (Tariffs and charges).

⁴⁰ Energy retail code, clauses 46(3) and 46(4) (Tariffs and charges).

⁴¹ Energy retail code, clause 47(2) (Cooling off period and right of withdrawal).

⁴² Energy retail code, clause 47(3) (Cooling off period and right of withdrawal).

⁴³ Energy retail code, clause 47(4) (Cooling off period and right of withdrawal).

⁴⁴ Energy retail code, clause 47(5) (Cooling off period and right of withdrawal).

⁴⁵ Energy retail code, clause 47(6) (Cooling off period and right of withdrawal).

⁴⁶ Energy retail code, clause 35A(1)(b) (Additional retail charges).

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If you levy additional retail charges on your customers, any amount must be fair and reasonable considering the costs you incur.⁴⁷

The term ‘additional retail charges’ refers to a charge relating to the sale of electricity by you to a customer other than a charge based on the tariff applicable to that customer. Any network charge relating to the supply, but not sale, of electricity is not an additional retail charge, nor is any amount payable by the customer for the customer’s breach of contract.⁴⁸

6.6. To whom you are required to sell electricity

You cannot refuse to sell electricity to someone within the limits of the site that you own, occupy or operate, except in two limited circumstances.

- First, you can refuse to sell electricity in accordance with the disconnection provisions in the energy retail code
- Second, you can refuse to sell electricity where you have disconnected the customer’s premises for some other reason other than a failure to pay a bill, and the problem that led to the disconnection has not been fixed. Once the problem has been fixed, you must reconnect the premises and offer to sell electricity.⁴⁹

6.7. Billing

Bills for customers must be based on:

- metering data provided for the meter at the customer’s premises, or
- any other method agreed by you and the customer, provided you have the explicit informed consent of the customer.⁵⁰

Where you bill a customer based on metering data, you must use your best endeavours to have actual readings carried out at least every three months,⁵¹ and in any event at least once every 12 months.⁵²

⁴⁷ Energy retail code, clause 35A(2) (Additional retail charges).

⁴⁸ Energy retail code, clause 35A (Additional retail charges).

⁴⁹ Energy retail code, clause 17 (Exempt persons and obligations to sell electricity).

⁵⁰ Energy retail code, clause 20(1)(a) (Basis for bills).

⁵¹ Energy retail code, clauses 20(2) (Basis for bills) and 24(1) (Frequency of bills).

⁵² Energy retail code, clause 20(2) (Basis for bills).

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6.7.1. Billing based on estimates

In some cases, you may base a customer's bill on an estimate of the customer's consumption of electricity. There are two main circumstances where you may use an estimate to bill a customer:

- First, if the customer has given you their explicit informed consent to use an estimate.
- Second, if you are unable to reasonably or reliably base the bill on an actual meter reading.⁵³

Basis of estimation

Where you use an estimate to bill a customer, the estimate must be based on one of three measures:

- the customer's reading of the meter
- historical metering data for that customer that is available to you, or
- the average usage of energy by a similar customer over a similar period if you do not have historical metering data for the customer.⁵⁴

Smart meters

If your customer has a smart meter and you are unable to reasonably or reliably base a bill on actual metering data from the customer's meter for each trading interval, you may provide the customer with a bill that is either:

- prepared using estimated and/or substituted metering data in accordance with applicable energy laws, or
- if estimated and/or substituted metering data is not available, prepared on the basis of the customer's historical billing or metering data or, if you do not have that information, the average usage of energy by a comparable customer over the corresponding period covered by the estimated bill.⁵⁵

Telling customers about estimated bills

If you bill a customer based on an estimate, you must tell the customer on the bill that it is based on an estimate. If the estimate is based on the customer's reading of the meter, you must also inform the customer of that on the bill.⁵⁶

⁵³ Energy retail code, clause 21(1) (Estimation as basis for bills).

⁵⁴ Energy retail code, clause 21(2) (Estimation as basis for bills).

⁵⁵ Energy retail code, clause 21(2A) (Estimation as basis for bills).

⁵⁶ Energy retail code, clause 21(3) (Estimation as basis for bills).

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Where you are billing a customer without a smart meter based on an estimate (which is not based on the customer's reading of the meter), you are required to advise the customer in writing:

- that the customer may ask for an adjusted bill (as discussed in the paragraph below)
- of any changes to their payment obligations if they ask for an adjusted bill
- how the customer can obtain the information necessary to read the meter themselves.⁵⁷

Customer request for an adjusted bill

Where a customer receives a bill based on an estimate (and which is not based on their reading of the meter), and the customer does not have a smart meter, the customer may ask for an adjusted bill based on their reading of the meter by providing you with their reading before the due date for payment of the bill.⁵⁸

Customer guide to reading meters

You are required to make available to customers, free of charge, a clear and simple guide on how to read their meter, the types of information they need to provide when providing you with their own estimate, and the manner in which the customer can provide you with that estimate.⁵⁹

When you must accept a customer's meter read

Where a customer without a smart meter:

- requests an adjustment based on a reading they provide to you
- provides you with the estimate before the due date for payment
- the information is provided to you in accordance with the guidance you have given.

you are required, promptly and at no charge, to provide the customer with an adjusted bill based on their estimate.⁶⁰

Discounts and benefits still apply

Where changes to a customer's payment obligations arise from a request for an adjusted bill and includes a new date for payment of their bill, any benefits provided by you under the contract with the customer for payments made by the due date must be applied to the new date for payment.⁶¹

⁵⁷ Energy retail code, clause 21(3B) (Estimation as basis for bills).

⁵⁸ Energy retail code, clause 21(3A) (Estimation as basis for bills).

⁵⁹ Energy retail code, clause 21(3C) (Estimation as basis for bills).

⁶⁰ Energy retail code, clause 21(3D) (Estimation as basis for bills).

⁶¹ Energy retail code, clause 21(3H) (Estimation as basis for bills).

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For example, if you provide that customer with a pay-on-time discount, that benefit must be applied to the new date for payment.

Rejecting customer meter reads and dispute resolution

If you receive the customer's meter reading on or after the due date for payment, or the customer's meter reading is not provided in accordance with the guidance you have given, you may reject the customer read estimate.⁶²

If you reject a customer's read estimate, you must promptly tell the customer in writing of the specific reasons for rejecting that estimate.⁶³ The reasons for rejecting a customer meter reading might include, for example, that the reading given is less than the value from when the meter was last read, or the photograph taken of the reading is unclear or does not show the correct meter installed at the customer's premises. In the same notice, you must inform the customer that they may lodge a dispute with the Energy and Water Ombudsman (Victoria) where they are not satisfied with your decision.⁶⁴

This applies where the customer has followed the process for attempting to address rejection of a customer meter reading (see below). The customer may also ask you to review the bill in accordance with your standard complaints and dispute resolution procedures (also see below).⁶⁵

Your standard complaints and dispute resolution procedures must contain a process for customers to attempt to address the reason given by you for rejection of a customer meter reading.⁶⁶

Adjustment to estimated bills and time to pay

If you give a customer a bill based on an estimate and you later issue the customer with a bill based on an actual meter reading, you must include an adjustment on the later bill to take account of any overcharging of the customer.⁶⁷ Unless the reason you could not use actual data is the fault of the customer, you must, if the customer requests, provide time for the payment of any undercharged amounts by agreed instalments.⁶⁸

⁶² Energy retail code, clause 21(3E) (Estimation as basis for bills).

⁶³ Energy retail code, clause 21(3E) (Estimation as basis for bills).

⁶⁴ Energy retail code, clause 21(3G) (Estimation as basis for bills).

⁶⁵ Energy retail code, clause 21(3G) (Estimation as basis for bills).

⁶⁶ Energy retail code, clause 21(3F) (Estimation as basis for bills).

⁶⁷ Energy retail code, clause 21(4)(a) (Estimation as basis for bills).

⁶⁸ Energy retail code, clause 21(4)(b) (Estimation as basis for bills). The period of time to be provided is no longer than the period during which an actual meter reading was not obtained where that period is less than 12 months.

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If you have been unable to read a customer's meter because of something the customer has or has not done, and you give the customer a bill based on an estimate, the customer may ask you to replace that bill with one based on an actual reading. You must replace the bill, but you may charge the customer for the costs involved in you doing so.⁶⁹

6.7.2. Proportionate billing

If you give a customer a bill for a period that is different from the customer's usual billing cycle or a period during which there is a change to a customer's tariff, you must charge the customer in proportion to the relevant periods. You must show the details of this proportionate billing on the bill.⁷⁰

6.7.3. Bill smoothing

You are permitted to provide a customer with bills over a 12-month period based on an estimate of consumption under 'bill smoothing' arrangements. You may only do so where you have the explicit informed consent of the customer and the conditions set out in [Box 3](#) are met.⁷¹

Box 3: Conditions to be satisfied for bill smoothing

You may provide a customer with bills over a 12-month period based on an estimate of consumption where you have the explicit informed consent of the customer and:

- the amount payable under each bill is initially the same and is set on the basis of your initial estimate of the amount of electricity the customer will consume over the 12-month period
- the initial estimate is based on that customer's historical billing data or, if you do not have such data, the average usage of electricity by a similar customer calculated over a 12-month period
- in the seventh month you re-estimate the amount of electricity the customer will consume over the 12-month period in light of actual metering information and seasonal factors and, if there is a difference between these two amounts that is greater than 10%, you reset the amount payable for the remainder of the 12 month period to reflect that difference, and

If the period during which an actual meter reading was not obtained is greater than 12 months, the period of time is 12 months.

⁶⁹ Energy retail code, clause 21(5) (Estimation as basis for bills).

⁷⁰ Energy retail code, clause 22 (Proportionate billing).

⁷¹ Energy retail code, clause 23 (Bill smoothing).

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- at the end of the 12-month period, the meter is read and any undercharging or overcharging is adjusted for.

6.7.4. Frequency of bills

You are required to bill your customers at least once every three months.⁷²

6.7.5. Presentation of bills

Customer bills must be presented in a way that the customer can easily check whether they have been billed consistently with the contract they have with you.⁷³ The bill must include at least the information set out in **Box 4** below.⁷⁴

We have sample bills on our website for persons selling electricity via embedded networks in premises such as apartment buildings, caravan parks, retirement villages and lifestyle villages:

<https://www.esc.vic.gov.au/sites/default/files/documents/Sample%20bill%20for%20embedded%20networks%202020.pdf>

Box 4: Information that must be included on a customer bill

- | | |
|--|---|
| <ul style="list-style-type: none"> • customer name and account number • customer address where the electricity is supplied and mailing address (if different) • meter identifier • billing period • date the bill was issued • date the bill must be paid by • total amount payable by the customer, identifying any amount of arrears or credits | <ul style="list-style-type: none"> • If the bill is based on interval data from a smart meter—details of the index read at the start and end of the billing period, the actual tariffs, and the total amount of electricity (in kWh) consumed in each period to which a relevant tariff applies. • If the bill is issued on the basis of an actual meter reading and, if so, the date of the reading and the values of the meter readings at the start and end of the billing period. • If the bill is issued on the basis of an estimate and, if so, the meter readings or estimates used at the start and end of the billing period. |
|--|---|

⁷² Energy retail code, clause 24 (Frequency of bills).

⁷³ Energy retail code, clause 25(1) (Contents of bills).

⁷⁴ Energy retail code, clause 25(1) (Contents of bills).

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- tariffs and charges relevant to the customer
- basis on which the tariffs and charges are calculated
- payment details
- telephone number for customer queries (not to be charged at more than a local call)
- telephone number for complaints (not to be charged at more than a local call)
- details of any proportionate billing as referred to in subsection 3.8.2 above.

- Details of how much electricity the customer has used or is estimated to have used in the billing period.
- For customers with a smart meter and to the extent data is available, details of the customer's consumption of electricity for each monthly period over the past 12 months in a graph.⁷⁵
- Where the customer has provided a security deposit, the amount of that deposit.⁷⁶
- Reference to the availability of government funded energy charge rebate, concession or relief schemes.⁷⁷

6.7.6. Billing for goods and services other than electricity

If you bill the customer for goods and services other than electricity—you must either bill the customer for these other goods and services on a separate bill or as a separate item on the electricity bill.⁷⁸

Where you include charges for other goods and services on an electricity bill, the customer's payment must be allocated first to the charges for the supply of electricity—unless the customer directs the payment to be allocated in a different way or the customer agrees to some other apportionment arrangement.⁷⁹

6.7.7. Time to pay

You must allow a customer at least 13 business days from the date the bill is issued to pay.⁸⁰ That is, you need to provide a clear 13-business day period between issuing the bill and requiring payment.

⁷⁵ This applies to exemption categories VD1 and VR1.

⁷⁶ This applies to exemption categories VD1, VD7 and VR1.

⁷⁷ This applies to exemption categories VD2, VR2, VR3 and VR4.

⁷⁸ Energy retail code, clause 25(2) (Contents of bills).

⁷⁹ Energy retail code, clause 27 (Apportionment).

⁸⁰ Energy retail code, clause 26(1) (Pay-by-date).

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6.7.8. In-home displays

If you are a retailer selling electricity to 10 or more residential customers within a site that you own (**not** including retirement villages, caravan parks, holiday parks, residential land lease parks or manufactured home estates) (exemption category VR2) and you provide an in-home display to a customer, you must provide information to the customer on how any consumption and cost information on the in-home display compares to the information on their bills.⁸¹

6.7.9. Provision of historical billing and metering data

If a customer asks you for historical billing and metering data, you must use your best endeavours to provide that information for the previous two years within 10 business days of their request, unless they agree to a longer period.⁸² You must not charge a customer for that information. If a customer requests information or data for an earlier period or makes a request for the information or data more than once in any 12-month period, you may levy a reasonable charge for providing that information and data to the customer.⁸³

6.7.10. Smart meter data

Where a customer with a smart meter requests historical billing data or metering data, you must provide interval data electronically or in some other way that makes the information understandable.⁸⁴

6.8. Undercharging

If you have undercharged a customer, you may, subject to some important limitations, recover the amount undercharged from the customer. Undercharging includes the situation where you have failed to issue a bill.⁸⁵

6.8.1. Limits on undercharged amounts

Most importantly, unless the undercharging arises from the fault of the customer, or by some unlawful act or omission of the customer, you are limited to recovering only the amount

⁸¹ Energy retail code, clause 27A (In home displays).

⁸² Energy retail code, clause 28(1) (Historical billing information).

⁸³ Energy retail code, clause 28(2) (Historical billing information).

⁸⁴ Energy retail code, clause 28(2A) (Historical billing information).

⁸⁵ Energy retail code, clause 30(1) and (3) (Undercharging).

undercharged in the nine months before the date you notified the customer of the undercharging.⁸⁶ From 1 January 2021 you are limited to recovering the amount undercharged in the four months before you notify the customer of the undercharging.⁸⁷

You cannot charge interest on an undercharged amount and you must offer the customer time to pay the amount by agreed instalments. The customer may nominate the period of time over which the instalments are to be made. This period is to be no longer than:

- the period during which the undercharging occurred where it occurred for less than 12 months, or
- in any other case, 12 months.⁸⁸

For example, if you fail to issue bills for three months, discover your error and then notify the customer of the undercharging (by issuing the missing bills), you must provide the customer with up to three months to pay the undercharged amount.

6.8.2. Notification of undercharging

You must also state any undercharged amount being recovered as a separate item in a special bill or in the next bill, along with an explanation of that amount.⁸⁹ If the tariff changed in the period when the undercharging occurred, you must work out those charges at the original and changed tariffs in proportion to the relevant periods during which the original and changed tariffs were in effect.⁹⁰

6.9. Overcharging

Where you have overcharged a customer, the steps you are required to take vary depending on whether the amount overcharged is \$50 or more.

⁸⁶ Energy retail code, clause 30(2)(a) (Undercharging). Note that from 1 January 2021 only the amount undercharged in the four months before the customer was notified of the undercharge will be recoverable.

⁸⁷ Changing the back-billing rules for retail energy customers: final decision, 8 July 2020.

⁸⁸ Energy retail code, clause 30(2)(d) (Undercharging).

⁸⁹ Energy retail code, clause 30(2)(c) (Undercharging).

⁹⁰ Energy retail code, clause 30(2A) (Undercharging).

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6.9.1. Less than \$50

Where the amount overcharged is less than \$50, you must credit the overcharged amount to the customer's next bill or, if they are not your customer anymore, use your best endeavours to refund the overcharged amount to the customer within 10 business days.⁹¹

6.9.2. More than \$50

Where the amount overcharged is \$50 or more you must repay that amount to the customer in the way the customer may reasonably direct. If the customer does not provide a reasonable direction as to how the amount is to be paid, you must credit the overcharged amount to the customer's next bill. If the customer does not provide a reasonable direction and you no longer supply services to that customer, you must use your best endeavours to refund the overcharged amount within 10 business days.⁹²

6.9.3. Unlawful acts

Where you have overcharged a customer because of the customer's unlawful act or omission, you are only required to repay, credit or refund the amount the customer was overcharged in the 12 months before the error was discovered.⁹³

6.9.4. Interest

You are not required to pay interest on amounts overcharged.⁹⁴

6.10. Payment methods

You must offer your customers at least two of the following ways to pay, and one of which does not require internet access:⁹⁵

- in person
- by mail
- by telephone
- by electronic funds transfer
- by direct debit.

⁹¹ Energy retail code, clause 31(3) (Overcharging).

⁹² Energy retail code, clause 31(2) (Overcharging).

⁹³ Energy retail code, clause 31(5) (Overcharging).

⁹⁴ Energy retail code, clause 31(4) (Overcharging).

⁹⁵ Energy retail code, clause 32A(2) and (3) (Payment methods for exempt persons).

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6.10.1. Direct debit

If you offer direct debit, you must offer two other payment methods in addition to direct debit, which must include at least one of paying in person, by telephone or by mail.⁹⁶

6.10.2. Payment in advance

If a customer wishes to pay for a bill in advance, you are required to accept that payment.⁹⁷

6.11. Other billing matters

6.11.1. Receipts

You must provide your customers with a receipt for payment unless they pay by direct debit, or by credit card over the phone or internet and the customer is provided with a receipt number.⁹⁸

Where the customer pays for electricity together with a payment for rent (as separate, discrete charges), you must either provide a separate receipt for the electricity payment or separately identify the electricity payment on the rent receipt.⁹⁹

6.11.2. Request for final bill

If a customer asks you to prepare and issue a final bill for their premises, you must use your best endeavours to arrange for that to be done.¹⁰⁰

6.11.3. Merchant service fees

If a customer pays a bill in a manner that results in you incurring a merchant service fee, you can recover the amount of that fee from the customer.¹⁰¹

6.11.4. Dishonoured payments

If a customer makes a payment that is dishonoured or reversed through the fault of the customer and you incur a fee, you may recover that fee from the customer.¹⁰²

⁹⁶ Energy retail code, clause 32A(4) (Payment methods for exempt persons).

⁹⁷ Energy retail code, clause 32A(5) (Payment methods for exempt persons).

⁹⁸ Energy retail code, clause 32B(2) (Payment methods for exempt persons).

⁹⁹ Energy retail code, clause 32B(3) (Payment methods for exempt persons).

¹⁰⁰ Energy retail code, clause 35(1) (Request for final bill).

¹⁰¹ Energy retail code, clause 35B(1) (Merchant service fees).

¹⁰² Energy retail code, clause 35C(1) (Dishonoured payments).

6.12. Retailer notice of benefit change

If you include benefits in your arrangements with customers, there are certain things you must do if those benefits change. A benefit may be something like a price discount. A benefit change occurs where there is any change to, or the expiry of, a benefit provided to a customer.¹⁰³

What you must do

Where there is any change to a benefit in an arrangement with a customer, you must write to the customer notifying them of that change. You must do this no earlier than 40 business days before the change, and no later than 20 business days before the change.¹⁰⁴

There are a number of requirements that apply to the notice you are required to give the customer of a benefit change. The notice must state:

- the customer's meter identifier, and
- the benefit change that is to occur and the date that it is to occur.¹⁰⁵

6.13. Assistance for residential customers anticipating or facing payment difficulties (VD2, VR2, VR3 and VR4)

The energy retail code places a number of important obligations on exempt retailers to assist residential customers anticipating or facing payment difficulties. A residential customer is a customer who purchases electricity principally for personal, household or domestic use.¹⁰⁶ These obligations apply to exempt retailers in categories VD2, VR2, VR3 and VR4.

6.13.1. Standard assistance

There is an obligation to provide 'standard assistance'. The objective of this obligation is to give residential customers an entitlement to minimum standard forms of assistance to help them avoid getting into arrears.¹⁰⁷ These obligations are minimum obligations – you can always provide more assistance if you wish to.¹⁰⁸

¹⁰³ Energy retail code, clause 45A (Definitions).

¹⁰⁴ Energy retail code, clause 47A (Retailer notice of benefit change).

¹⁰⁵ Energy retail code, clause 47A (Retailer notice of benefit change).

¹⁰⁶ Energy retail code, clause 3 (Definitions).

¹⁰⁷ Energy retail code, clause 74 (Objective).

¹⁰⁸ Energy retail code, clause 90(1) (Assistance beyond the minimum standards).

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Standard assistance you must provide

You are required to provide your residential customers with forms of ‘standard assistance’ to help those customers **avoid getting into arrears**. The standard assistance you make available must include at least three from the following list:

- making payments of an equal amount over a specified period
- options for making payments at different intervals
- extending by a specified period the pay-by-date for a bill for at least one billing cycle in any 12-month period
- paying for electricity in advance.¹⁰⁹

6.13.2. Tailored assistance

There is also an obligation to provide ‘tailored assistance’. The objective of this obligation is to give residential customers an entitlement to minimum standards of flexible and practical assistance that makes it easier for them to pay for their on-going electricity use, repay any arrears and lower their electricity costs.¹¹⁰ These provisions apply to all residential customers **who are in arrears**. Again, these obligations are minimum obligations – you can always provide more assistance if you wish to.¹¹¹

Tailored assistance you must provide

Tailored assistance consists of a number of measures as outlined in [Box 5](#) below and may consist of any other assistance consistent with the objective of providing tailored assistance (set out above).¹¹²

Box 5: Tailored assistance

Tailored assistance measures include:

1. Repayment of arrears over not more than two years by payments at regular intervals of up to one month.

¹⁰⁹ Energy retail code, clause 76 (Standard assistance).

¹¹⁰ Energy retail code, clause 77 (Objective).

¹¹¹ Energy retail code, clause 90(1) (Assistance beyond the minimum standards).

¹¹² Energy retail code, clause 79(1) (Minimum assistance).

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2. Advice from you about payment options that would enable a customer to repay their arrears over not more than two years.
3. Specific advice about any government and non-government assistance (including Utility Relief Grants and energy concessions) available to help a customer meet their electricity costs.

6.13.3. Providing information about assistance

Where a residential customer has not paid a bill by the due date and contacts you, you must provide information to the customer about their entitlement to assistance and how to access it.¹¹³

Customer arrears of \$55 or more

Where a customer has not paid a bill by its due date and has arrears of more than \$55 (inclusive of GST), you are required to contact that customer and provide information to that customer about their entitlement to assistance and how to access it.¹¹⁴ You must provide that information within 21 business days after the pay-by date of the bill.

Time for customers to consider assistance

You must provide a customer with at least six business days to consider the information you provide to them about the assistance they are entitled to, request any further information, and to put forward a payment proposal.¹¹⁵

6.13.4. Payment arrangements

You **must** accept a payment proposal or revised proposal by a residential customer where that proposal:

- provides for the making of payments of equal amounts at regular intervals of up to one month
- would result in the customer's arrears being fully paid in no more than two years after the first payment
- provides for payments for electricity use being made together with payments to reduce arrears, and

¹¹³ Energy retail code, clause 80(1) (Information about assistance available).

¹¹⁴ Energy retail code, clause 80(2) (Information about assistance available).

¹¹⁵ Energy retail code, clause 80(3) (Information about assistance available).

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- is based on a reasonable forecast of the customer's electricity use over the next 12 months.¹¹⁶

Optional payment arrangements

You may – but do not have to – accept a payment proposal or revised proposal that does any or all of the following:

- provides for payments of different amounts at different intervals
- would result in the arrears being fully paid by a date later than two years after the first payment
- provides for payments for electricity use being made separately from payment for arrears.¹¹⁷

6.13.5. Payment arrangement schedule

Where you accept a payment proposal or revised proposal, you are required to give the customer a written schedule of payments which details:

- the total number of payments to be made
- the period over which they are to be made, and
- the due date and amount for each payment.¹¹⁸

6.13.6. What to do when a customer does not make a payment

Where a customer receiving assistance does not make a payment by the due date, you must contact the customer in order to discuss their putting forward a revised payment proposal.¹¹⁹

6.13.7. Withdrawing assistance

You are required to keep providing tailored assistance to a residential customer unless:

- after you have contacted the customer in connection with them offering a revised payment proposal, the customer has refused or failed to take reasonable action towards paying for their on-going electricity use and repaying their arrears, or
- the customer is no longer facing payment difficulties.¹²⁰

¹¹⁶ Energy retail code, clause 81(2) and (3) (Payment arrangements).

¹¹⁷ Energy retail code, clause 81(4) (Payment arrangements).

¹¹⁸ Energy retail code, clause 81(5) (Payment arrangements).

¹¹⁹ Energy retail code, clause 81(6) (Payment arrangements).

¹²⁰ Energy retail code, clause 83(1) (Continued provision of assistance).

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6.13.8. Providing information to customers

You are required to ensure that particular information is readily available to residential customers about assistance. This includes information about:

- the standard and tailored assistance available to them and how to access it
- approaches to lowering electricity costs, and
- government and non-government assistance (including Utility Relief Grants and electricity concessions) that may be available to help with meeting energy costs.¹²¹

Making information readily available

If you send or give the above information to a residential customer who requests that information, this is considered to be making the information 'readily available'.¹²²

Presentation of information

Any written communication to a residential customer in connection with financial assistance must be in plain language, legible and presented clearly and appropriately considering its nature.

Sending financial assistance information to customers

You are required to give or send by post any written communication in connection with financial assistance unless the customer has given explicit informed consent to receiving it in another way.¹²³ You must not charge a residential customer for these communications.¹²⁴

6.13.9. General retailer obligations under Part 3 of the energy retail code

There are a number of other general obligations that you have in relation to providing financial assistance to residential customers. These include that you must:

- in dealing with a residential customer in connection with financial assistance, take into account all of the circumstances of the customer of which you are aware and, having regard to those circumstances, act fairly and reasonably
- give customers clear information about the assistance available to them in a timely manner
- provide assistance in a timely manner

¹²¹ Energy retail code, clause 86(3) (Provision of information to customers).

¹²² Energy retail code, clause 86(4)(b) (Provision of information to customers).

¹²³ Energy retail code, clause 87(2) (Written communications).

¹²⁴ Energy retail code, clause 87(5) (Written communications).

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- provide clear information about how to access other assistance provided by government or community service providers
- work cooperatively with any government or non-government service, including the Energy and Water Ombudsman (Victoria), providing support to a residential customer so that assistance is provided in a complementary and coordinated way.¹²⁵

6.13.10. No conditions for customers to access assistance

You must not impose any conditions on the provision of assistance that requires the customer to provide personal or financial information or to waive any entitlement to assistance.¹²⁶

6.13.11. Debt recovery

Where a residential customer is receiving assistance from you, you must not commence or continue proceedings for the recovery of arrears.¹²⁷

You also must not sell or otherwise dispose of the debt of a residential customer who is in arrears at any time while the customer is receiving assistance from you or within 10 business days after the customer has been disconnected from their electricity supply for non-payment.¹²⁸

You may only sell or otherwise dispose of the debt of a residential customer to a third party in accordance with a guideline published by the Australian Competition and Consumer Commission and the Australian Securities and Investment Commission entitled: “Debt Collection Guideline for Collectors and Creditors”.¹²⁹

6.13.12. Assistance beyond the minimum standards

As noted previously, the obligations in the energy retail code to provide assistance are minimum obligations – you can always provide greater assistance if you wish to. This may include waiving any fee, charge, or amount of arrears for a particular customer.¹³⁰

¹²⁵ Energy retail code, clause 89(1) (Retailer obligations).

¹²⁶ Energy retail code, clause 91(1) (Restriction on conditions).

¹²⁷ Energy retail code, clause 92(1) (Debt).

¹²⁸ Energy retail code, clause 92(2) (Debt).

¹²⁹ Energy retail code, clause 92(3) (Debt). See: <https://www.accc.gov.au/publications/debt-collection-guideline-for-collectors-creditors>

¹³⁰ Energy retail code, clause 92(4) (Debt).

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6.13.13. Prohibition on supply capacity control products

You must not offer a residential customer a supply capacity control product (being the use of a smart meter to temporarily interrupt electricity supply to the customer) for a credit management purpose.¹³¹

6.14. Life support obligations

Important obligations apply under both the energy retail code and the electricity distribution code where a person residing at particular premises requires life support equipment.¹³² Under the energy retail code, these obligations generally apply to exempt retailers in category VD2, VR2, VR3 and VR4. However, restrictions on de-energising premises registered for life support equipment apply more broadly and include exempt retailers in categories VD1, VD7 and VR1 as well.¹³³

The electricity distribution code contains special provisions for life support that apply to **all** exempt distributors.¹³⁴ If you supply electricity in one of the network exemption categories identified in the general exemption order, you will be subject to the life support obligations in the electricity distribution code, as well as those applicable under the energy retail code.

6.14.1. Life support equipment

Life support equipment generally means any of the following equipment:

- an oxygen concentrator
- an intermittent peritoneal dialysis machine
- a kidney dialysis machine
- a chronic positive airways pressure respirator
- crigler najjar syndrome phototherapy equipment
- a ventilator for life support

In addition, for any particular customer, life support equipment includes 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.¹³⁵

¹³¹ Energy retail code, clause 93(1) (Supply capacity control product).

¹³² Energy retail code, clause 125 (Exempt persons additional requirements).

¹³³ Energy retail code, clause 116(7).

¹³⁴ See Appendix B of this guide.

¹³⁵ Energy retail code, clause 3 (definitions) and Schedule 10

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6.14.2. When customer advises that they require life support

Exempt retailers subject to the energy retail code's life support obligations must ask the customer whether a person residing or intending to reside at the customer's premises requires life support equipment before entering into a services arrangement with the customer. If so advised, the exempt retailer must do all of the following:

- **Within one business day** – register the premises where life support equipment is or will be located and the date from which that life support equipment is required.¹³⁶
- **Within one business day** – notify any licensed retailer from whom the exemption holder purchases electricity, as well as any exempt distributor (if not you) that supplies electricity to the exemption holder, of the premises where life support equipment is or will be located and the date from which that life support equipment is required.¹³⁷
- **Within five business days** – provide a customer with a medical confirmation form and written information explaining that the customer may be deregistered for failing to provide the medical confirmation.¹³⁸
- **Within five business days** – determine whether the life support equipment is fuelled by both electricity and gas, and whether the customer has a different gas retailer, in which case, the customer must be advised he or she should speak to the gas retailer).¹³⁹
- **Within five business days** – advise the customer that there may be planned or unplanned interruptions or unplanned interruptions and that the distributor (including exempt distributor) are required to notify the customer of planned interruptions.
- **Within five business days** - provide the customer with information to help them to prepare a plan of action in the case of an unplanned energy interruption, an emergency telephone contact number for the exempt person and any distributor (exempt or otherwise), information about the types of equipment that fall within the definition of life support equipment, advice that the customer may be eligible for government concessions and rebates offered and how to access those items, and information in community languages about the availability of interpreter services and telephone numbers for the services.¹⁴⁰

¹³⁶ Energy retail code, clause 132(1).

¹³⁷ Energy retail code, clause 132(1).

¹³⁸ Energy retail code, cl 132(3).

¹³⁹ Energy retail code, clause 132(2). If the customer is served by a different gas retailer, you must inform the customer that they should speak to their gas retailer.

¹⁴⁰ Energy retail code, clause 132(1).

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Complying with these requirements is critical to ensuring that special protections are afforded to customers who require life support equipment.

6.14.3. Registering life support premises

The ‘registration process owner’ – that is, the energy company responsible for registering premises as requiring life support equipment – is the first energy company to be advised by the customer that life support equipment is, or will be, required at the premises served. In most cases, the registration process owner will be the exempt retailer who has a direct commercial relationship with the customer. However, the customer may advise another entity in the energy supply chain, such as the energy distributor or another retailer, of his or her need for life support equipment.

Whichever entity is advised of the need for life support equipment, that entity owns the registration process, including the process for notifying other entities in the energy supply chain of the need for special precautions being taken with respect to de-energising premises where life support equipment is located. When you are notified by an exempt distributor that a person requires life support you must register that person as requiring life support.¹⁴¹ It is up to each energy provider to determine how they maintain a register of each customer’s premises.

6.14.4. Medical confirmation forms

The medical confirmation form is a form prepared and issued by you to the customer that enables the customer to provide medical confirmation of his or her need for life support equipment. The energy retail code specifies details that must be included in the form, which must advise the customer of the date by which it must be returned to the exempt retailer and the customer’s opportunity to request an extension of time to complete and return the form. You must give the customer a **minimum of 50 business days** to provide medical confirmation (and, on request, given the customer at least one extension of a minimum of 25 days). The code also requires exempt retailers to provide at least two written reminder notices to the customer and specifies the dates when those notices must be provided, as well as their contents.¹⁴²

Where a customer fails to provide medical confirmation by the required date, you may de-register the customer’s premises only after you have complied with the requirements for providing reminders, have taken reasonable steps to contact the customer, have provided the customer with

¹⁴¹ Energy retail code, cl 132(2).

¹⁴² Energy retail code, clause 133.

a deregistration notice and the customer has still not provided medical confirmation. It is important you familiarise yourself with the detail of this process.¹⁴³

6.14.5. Ongoing obligations in relation to life support

When advised by a customer, licensed retailer or exempt distributor of any updates to the life support equipment requirements, you must both update the register, **within one business day** of being advised of the updated information. If the customer provides the updated information, you must also provide that information to any licensed retailer or exempt distributor that you have previously notified of the required life support equipment.

You must not arrange for de-energisation of the premises from the date the life support equipment will be required at the premises.

When notified by a distributor about a planned interruption, you must provide the affected customer with written notice (within one business day). That notice must provide the expected date, time and duration of the interruption and include a 24-hour telephone number for fault enquiries and emergencies.

6.14.6. De-registering life support customers

Where a customer whose premises are registered as requiring life support equipment advises that the person who required that equipment no longer lives there, or no longer requires life support, you may act to de-register those premises. As noted in the preceding section, you may also de-register premises where the medical confirmation form is not returned by the required date (including any extensions).

Where the required medical confirmation is not provided by the date it is due (including any extensions), you may de-register the premises but only if you have complied with the following steps:

- You must have previously sent at least two written reminder notices to the customer¹⁴⁴
- You must have taken reasonable steps to contact the customer who has failed to provide the medical confirmation, either personally, by telephone or by electronic means¹⁴⁵
- You provide the customer with a written notice that addresses specific matters required by the code. These matters include specifying the date on which the customer's premises will be

¹⁴³ Energy retail code (Deregistration where medical confirmation not provided), cl 135(5)

¹⁴⁴ Energy retail code (Deregistration where medical confirmation not provided). Cl 135(5) and cl 133.

¹⁴⁵ Energy retail code (Deregistration where medical confirmation not provided), clause 135(5).

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deregistered and advising that the customer must contact you if the person for whom life support equipment is required has not vacated the premises or still requires life support.¹⁴⁶

- You provide a deregistration notice to the customer at least 15 business days after issuing the second confirmation reminder notice. The code specifies what must be included in a deregistration notice.¹⁴⁷

Even where the customer advises you that the circumstances have changed and that life support equipment is no longer required at the premises, you must not de-register the premises unless all you provide written notification to the customer¹⁴⁸:

- confirming that the customer has advised you of the relevant change in circumstances
- advising of the date on which the premises will be de-registered, which must be at least 15 business days from the notification's date (unless the customer or the customer's authorised representative gives explicit informed consent to de-register the premises sooner, in which case you must make a record of such consent and keep it for at least two years);
- advising that the customer will no longer receive life support protection after deregistration; and
- directing the customer to contact you prior to the deregistration date if the circumstances have not changed (i.e., the person still requires life support equipment or has not vacated the premises).

At any time, you may request a customer whose premises have been registered as requiring life support equipment to confirm that there is a continued need for life support equipment at the address.¹⁴⁹

In addition, you must inform the licensed retailer and any exempt distributor within five business days, the date of de-registration and the reason for de-registration.¹⁵⁰

¹⁴⁶ Energy retail code (Deregistration where medical confirmation not provided), clause 135(5).

¹⁴⁷ Energy retail code (Deregistration where medical confirmation not required), clause 135(5).

¹⁴⁸ Energy retail code (Deregistration where there is a change in the customer's circumstances), clause 135(6)

¹⁴⁹ Energy retail code (Deregistration where there is a change in the customer's circumstances), clause 135(6).

¹⁵⁰ Energy retail code (Deregistration of premises), clause 135(3)

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6.14.7. Registration and deregistration details to be kept

You must establish policies, systems and procedures for registering and deregistering premises requiring life support equipment. You must also ensure that life support equipment registration and deregistration details are kept up to date.¹⁵¹

6.15. De-energisation (disconnection) of premises

6.15.1. Circumstances in which you can disconnect

You are only permitted to disconnect a customer in certain circumstances.¹⁵² These are listed below.

- The customer fails to pay a bill (see sections 3.16.8 below).
- The customer does not pay a security deposit or refuses to provide acceptable identification (see sections 3.16.10 below).
- The customer does not provide access to the meter (see section 3.16.13 below).
- The customer illegally uses energy (see section 3.16.14 below).
- The customer is a move-in or carry-over customer and does not enter into an arrangement with you (see section 3.16.15 below).

Each of the above circumstances, and the steps you are required to take before disconnecting a customer in those circumstances, are described below.

6.15.2. Reminder notices

There are two notices that are relevant to the disconnection of a customer.

First—a 'reminder notice'. The form of reminder notice varies depending on whether the relevant customer is a residential customer or not.

- For a residential customer, a reminder notice is a written notice with the heading 'Reminder Notice' prominently displayed on it, which is issued by you to a customer to remind them that payment of a bill is required.

¹⁵¹ Energy retail code (Registration and deregistration details must be kept by exempt persons) cl 136.

¹⁵² Energy retail code, clause 107(2) (Application of this Part).

- For any other small customer, a reminder notice is a notice issued by you to the customer after the due date of a bill to remind the customer that payment is required.

6.15.3. Contents of reminder notices for all customers

A reminder notice must state:

- the date of issue
- the date on which the ‘reminder notice period’ ends
- that payment of the bill is required to be made before the expiry of the reminder notice period, and
- details of how to contact you if the customer has a complaint or dispute.¹⁵³

6.15.4. Reminder notice period

The ‘reminder notice period’ is a period that starts on the date the reminder notice is issued to the customer and which ends no earlier than six business days after the date of issue. That is, there must be at least a clear six-business day period between the date the reminder notice is issued and the end of the reminder notice period. The end of the reminder notice period is the trigger for the commencement of the ‘disconnection warning period’ discussed below.

6.15.5. Reminder notices for residential customers

You must issue a reminder notice to a residential customer within 21 business days after the due date of the bill.

Where a customer is on a payment arrangement under tailored assistance (see section 3.14.2), you must not issue a reminder notice to that customer unless the customer has failed to make a payment by the date on which a payment under that plan was due.

6.15.6. Disconnection warning notices

The second notice you must provide to a customer prior to disconnection is a ‘disconnection warning notice’. This is a notice issued by you to a customer to warn them that their premises will or may be disconnected.¹⁵⁴ The purpose of a disconnection notice is to provide the customer with clear advice about what the customer needs to do in order to avoid being disconnected.¹⁵⁵

¹⁵³ Energy retail code, clause 109(5) (Reminder notices—retailers).

¹⁵⁴ Energy retail code, clause 110(1) (Disconnection warning notices).

¹⁵⁵ Energy retail code, clause 110(1A) (Disconnection warning notices).

A disconnection warning notice must set out the information described in [Box 6](#) below.¹⁵⁶

Box 6: Requirements for a disconnection warning notice

A disconnection warning notice must:

- state the date of issue
- identify the matter that gives rise to the potential disconnection
- if the customer is a residential customer who is entitled to receive assistance under Part 3 of the energy retail code:
 - provide an explanation in plain language of the notice and why it is being issued
 - provide clear advice as to what the customer needs to do to avoid being disconnected, including advice as to any entitlement they may have to further assistance under Part 3 of the energy retail code
- if the customer is or may be eligible for assistance provided by government or community service providers, provide clear information about how to access that assistance
- if the notice has been issued for not paying a bill, state the date on which the disconnection warning notice period ends, and that payment of the bill must be made during this period
- if the notice is issued for a reason other than not paying a bill, must allow a period of not less than five business days after the date of issue of the disconnection warning notice for the customer to rectify that matter before disconnection will or may occur
- set out any applicable reconnection procedures and whether a charge will be imposed for reconnection
- provide details of the energy ombudsman, including contact details
- provide details of your telephone number for payment assistance enquiries
- for a customer with a smart meter, state that disconnection could occur remotely.

¹⁵⁶ Energy retail code, clause 110(2) (Disconnection warning notices).

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6.15.7. Disconnection warning period

The reference to the term ‘disconnection warning period’ is a reference to the period starting on the date of issue of the disconnection warning notice (which cannot be earlier than the next business day after the end of the reminder notice period) and which ends no earlier than six business days from the date of issue of the disconnection warning notice.¹⁵⁷ That is, there must be at least a clear six-business day period between the date the disconnection warning notice is issued and the end of the disconnection warning period.

6.15.8. Disconnection for not paying a bill (non-residential customers)

For exempt retailers in categories VD1 and VR1, you may disconnect a small customer who is not a residential customer, if each of the following is satisfied:

- the customer has not paid a bill by the due date or is on a payment plan and has not adhered to the terms of that plan
- you have given the customer a reminder notice
- you have given the customer a disconnection warning notice after the expiry of the period specified in the reminder notice
- after giving the disconnection warning notice you have used your best endeavours to contact the customer in person, by phone or by fax or other electronic means
- the customer has refused or failed to take any reasonable action towards settling the debt.¹⁵⁸

6.15.9. Disconnection for non-residential customers on shortened collection cycles

A slightly shorter process is involved where the customer is on a shortened collection cycle (see section 3.22 below) and has not paid a bill by the due date. In those circumstances you may disconnect a small customer who is not a residential customer, if you have:

- given the customer a disconnection warning notice after the pay-by-date
- after giving the disconnection warning notice, you have used your best endeavours to contact the customer in person, by phone or by fax or other electronic means
- the customer has refused or failed to take any reasonable action towards settling the debt.¹⁵⁹

¹⁵⁷ Energy retail code, clause 108 (Definitions).

¹⁵⁸ Energy retail code, clause 111(1) (De-energisation for not paying bill (small customer who is not a residential customer)).

¹⁵⁹ Energy retail code, clause 111(3) (De-energisation for not paying bill (small customer who is not a residential customer)).

6.15.10. Residential customers can only be disconnected as a last resort for non-payment

Exempt retailers in categories VD2, VR2, VR3 and VR4 may disconnect **residential** customers in limited circumstances. These exempt retailers may only disconnect a residential customer where:

- a customer receiving tailored assistance has failed to make a payment by the date it was due and has not put forward a revised payment proposal
- the customer has refused or failed to take reasonable action towards remedying the matter.¹⁶⁰

In the above circumstances, you may only disconnect the customer where you have:

- complied with all the general obligations on you relating to the provision of financial assistance to residential customers (see section 3.14)
- issued a compliant reminder notice to the customer
- issued a compliant disconnection warning notice to the customer
- used your best endeavours to contact the customer and provided clear information about the assistance available under Part 3 of the energy retail code¹⁶¹
- have acted fairly and reasonably in relation to that customer.¹⁶²

You also must have records that demonstrate your entitlement to disconnect a particular residential customer.¹⁶³

6.15.11. Disconnection for not paying security deposit

Exempt retailers in categories VD1 and VR1 may disconnect a customer where the arrangement with the customer provides for payment of a security deposit and the customer has failed to pay a security deposit (see section 3.23 below on the circumstances in which you can request a security deposit). These exempt retailers may only disconnect such customers where:

- they have given the customer a notice of intention to disconnect them for that reason

¹⁶⁰ Energy retail code, clause 111A (Residential customer only to be disconnected as a last resort for non-payment).

¹⁶¹ Information about the commission's expectations to fulfil 'best endeavours' obligations can be found in chapters 4, 8 and 9 of the commission's Compliance and Enforcement Policy: Guidance note – payment difficulty and disconnection available at: https://www.esc.vic.gov.au/sites/default/files/documents/payment-difficulty-framework-energy-complianc-and-enforcement-policy-guidance-note-20171222_v2.pdf

¹⁶² Energy retail code, clause 111A(1) (Residential customer only to be disconnected as a last resort for non-payment).

¹⁶³ Energy retail code, clause 111(A)(1)(d) (Residential customer only to be disconnected as a last resort for non-payment).

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- they have given the customer a disconnection warning notice after the expiry of the period referred to in the notice of intention to disconnect (being not less than five business days after the notice of intention was given)
- the customer has not provided a security deposit.¹⁶⁴

6.15.12. Disconnection for failure to provide acceptable identification

Exempt retailers in categories VD1, VD2, VR1, VR2, VR3 and VR4 may disconnect a customer if the customer refuses to provide acceptable identification (where the customer is a new customer) where:

- they have given the customer a notice of intention to disconnect them for that reason
- they have given the customer a disconnection warning notice after the expiry of the period referred to in the notice of intention to disconnect (being not less than five business days after the notice of intention was given)
- the customer has not provided acceptable identification.¹⁶⁵

6.15.13. Disconnection for denying access to meter

You may disconnect a customer if the customer has failed to allow access to their premises for the meter to be read for three consecutive meter readings. You must not disconnect in these circumstances unless:

- you have given the customer an opportunity to offer reasonable alternative arrangements for access
- each time access was not given you have arranged for the customer to be given a notice requesting access to the meter and advising of your ability to disconnect
- you have used your best endeavours to contact the customer in person, by telephone or by fax or other electronic means
- you have given the customer a notice of your intention to arrange for disconnection
- you have given the customer a disconnection warning notice after the expiry of the period referred to in the notice of intention to disconnect, and
- the customer has not rectified the lack of access to the premises to read the meter.¹⁶⁶

¹⁶⁴ Energy retail code, clause 112(1) (De-energisation for not paying security deposit or refusal to provide acceptable identification).

¹⁶⁵ Energy retail code, clause 112(2) (De-energisation for not paying security deposit or refusal to provide acceptable identification).

¹⁶⁶ Energy retail code, clause 113(1) (De-energisation for denying access to the meter).

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6.15.14. Disconnection for illegally using electricity

You may make immediate arrangements for disconnection of a customer's premises if there has been fraudulent acquisition of electricity at those premises or intentional consumption of electricity that is not in accordance with energy laws. In these circumstances you are not required to provide a disconnection warning notice or other notice.¹⁶⁷

6.15.15. Disconnection for non-notification by move-in or carry-over customers

You may disconnect the premises of a 'move-in customer' or 'carry-over customer' if that customer fails to take steps to enter an arrangement with you for the supply of electricity.¹⁶⁸

A move-in customer is a customer that starts consuming electricity at premises without first applying to you for the sale of electricity.

A carry-over customer is a customer who continues consuming electricity at their premises after their arrangement with you expires or terminates and does not apply to you for the sale of electricity after the expiry or termination of that arrangement.

You may not disconnect a move-in customer or carry-over customer unless you have given the customer notice of your intention to do so as well as a disconnection warning notice. The disconnection warning notice cannot be given until after the expiry of the period stated in the notice of intention to disconnect, which is a period of five-clear business days after the notice of intention was given.¹⁶⁹

You may disconnect a move-in customer or carry-over customer in the above circumstances even if you have been unable to find out the name or other details of the person at the premises consuming the electricity.¹⁷⁰

6.15.16. When you must not arrange for disconnection

There are several circumstances in which you **must not** disconnect a customer's premises. These are set out in [Box 7](#) below.¹⁷¹

Box 7: Circumstances in which premises may not be disconnected

¹⁶⁷ Energy retail code, clause 114(1) (De-energisation for illegally using energy).

¹⁶⁸ Energy retail code, clause 115(1) (De-energisation for non-notification by move-in or carry-over customers).

¹⁶⁹ Energy retail code, clause 115(2) (De-energisation for non-notification by move-in or carry-over customers).

¹⁷⁰ Energy retail code, clause 115(3) (De-energisation for non-notification by move-in or carry-over customers).

¹⁷¹ Energy retail code, clause 116(1) (When retailer must not arrange de-energisation).

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You must not disconnect premises:

- Where the premises are registered as having life support equipment.
- Where the customer has made a complaint under your standard complaints and dispute resolution procedures that is directly related to the reason for the proposed disconnection and the complaint has not been resolved.
- Where the customer has made a complaint to the energy ombudsman directly related to the reason for the proposed disconnection and the complaint remains unresolved.
- Where the customer is a residential customer receiving assistance under Part 3 of the energy retail code and is adhering to the terms of that assistance.¹⁷²
- Where the customer tells you, or you are otherwise aware, that the customer has formally applied for assistance to an organisation responsible for a rebate, concession or relief available under any government funded energy charge rebate, concession or relief scheme and a decision on the application has not been made.¹⁷³
- On the basis that the customer has failed to pay an amount on a bill that relates to goods and services other than electricity.¹⁷⁴
- For non-payment of a bill where the total amount of the customer's arrears is less than \$300 (inclusive of GST).
- During a protected period—being a business day before 8.00 am or after 2.00 pm for a residential customer or 3.00 pm for a business customer; a Friday or the day before a public holiday; a weekend or a public holiday; or the days between 20 December and 31 December (inclusive) in any year.

When the disconnection restrictions do not apply

None of the restrictions in [Box 7](#) apply where the customer has requested disconnection. Other than the restriction on disconnection where the premises are registered as having life support equipment, none of the restrictions apply in relation to disconnection for fraudulent acquisition of

¹⁷² This restriction does not apply if the reason for disconnection is failure to provide access to a meter.

¹⁷³ This restriction does not apply if the reason for disconnection is failure to provide access to a meter.

¹⁷⁴ This restriction does not apply if the reason for disconnection is failure to provide access to a meter.

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electricity at the relevant premises. They also do not apply to the intentional consumption of electricity at the premises that is not in accordance with the energy laws.¹⁷⁵

6.15.17. Request for disconnection

Where a customer asks you to arrange for disconnection of their premises, you must use your best endeavours to arrange for disconnection in accordance with the customer's request, a meter reading and, if relevant, a final bill for the premises.¹⁷⁶

Remote disconnection for smart meters

Where a customer has requested disconnection and you can arrange for disconnection of the customer's smart meter remotely and safely, you must arrange for disconnection of the premises within two hours of the customer's request unless the customer has asked for disconnection at a scheduled time.¹⁷⁷

6.16. Reconnection

Where you have arranged for the disconnection of a customer's premises, you are required to arrange for reconnection of that customer where the customer has, within 10 business days of the disconnection:

- rectified the matter that led to the disconnection or has made other arrangements that are satisfactory to you
- has made a request for reconnection
- paid any relevant charge for reconnection.¹⁷⁸

6.16.1. Customer application for a Utility Relief Grant

Where the customer is eligible for a Utility Relief Grant and within 10 days of disconnection applies for that grant, that customer is taken to have rectified the matter that led to the disconnection.¹⁷⁹

¹⁷⁵ Energy retail code, clause 116(4) (When retailer must not arrange de-energisation).

¹⁷⁶ Energy retail code, clause 118(1) (Request for de-energisation).

¹⁷⁷ Energy retail code, clause 118(1)(d) (Request for de-energisation).

¹⁷⁸ Energy retail code, clause 121(1) (Obligation on retailer to arrange re-energisation of premises).

¹⁷⁹ Energy retail code, clause 121(2A) (Obligation on retailer to arrange re-energisation of premises).

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6.16.2. Customer requests for reconnection

Where a customer makes a request for reconnection before 3.00 pm on a business day, you must arrange for reconnection on the day of the request.¹⁸⁰

Where a customer makes a request for reconnection after 3.00 pm on a business day, you must arrange for reconnection on the next business day. However, if the request is made before 9.00 pm and the customer pays any relevant after-hours reconnection charge, you must arrange for reconnection on the day requested by the customer.¹⁸¹

6.16.3. Remote reconnections

Where you can reconnect a customer's premises remotely and safely using the customer's smart meter, you must use your best endeavours to arrange for reconnection within two hours.¹⁸²

The customer and you may agree later times for reconnection.¹⁸³

6.17. Retailer notice of end of fixed term arrangement

Where you have a fixed term arrangement with a customer, you are required to give them notice of when the arrangement is due to end. You must give this notice no earlier than 40 business days before the end date of the arrangement, and no later than 20 business days before the end date. If the customer has already entered a new arrangement with you or given some instructions to you regarding what is to happen at the end date, you are not required to give this notice.

6.17.1. Contents of notice

The notice to the customer advising that the arrangement is due to end must set out:

- the date on which the arrangement will end
- the customer's options for establishing a new arrangement
- the consequences for the customer if they do not enter a new arrangement, including that you may arrange for de-energisation of the premises and details of the process for de-energisation.¹⁸⁴

¹⁸⁰ Energy retail code, clause 122A(1)(a) (Time for re-energisation).

¹⁸¹ Energy retail code, clause 122A(1)(b) (Time for re-energisation).

¹⁸² Energy retail code, clause 122A(1)(c) (Time for re-energisation).

¹⁸³ Energy retail code, clause 122A(2) (Time for re-energisation).

¹⁸⁴ Energy retail code, clause 48 (Retailer notice of end of fixed term retail contract and EPA).

6.18. Standard complaints and dispute resolution procedures

You are required to develop and make a set of procedures setting out how you handle complaints and resolve disputes. You must review your complaints and dispute resolution procedures regularly and keep them up to date. The procedures are required to be substantially consistent with the Australian Standard AS ISO 10002-2006 (Customer satisfaction – Guidelines for complaints handling in organizations) as amended and updated from time to time.¹⁸⁵

You are required to provide information to your customers, both prior to obtaining the explicit informed consent of the customer to the sale of electricity and annually, about your procedures for handling disputes and complaints and the right that the customer has to access an external dispute resolution scheme approved by the commission, discussed below.¹⁸⁶

6.19. Customer dispute resolution scheme

As set out in the guide at 3.3 and 4.3, you are required to enter a customer dispute resolution scheme that has been approved by the commission.¹⁸⁷

6.20. Billing disputes and reviews

If a customer asks, you must review their bill in accordance with your standard complaints and dispute resolution procedures (see section 3.19 above).¹⁸⁸

6.20.1. Payment of a disputed bill

While you are undertaking a review of a customer's bill you may require the customer to pay the lesser of:

- that part of the bill that you and the customer agree is not disputed, or
- an amount equal to the average amount of the customer's bills in the previous 12 months, not including the disputed bill.¹⁸⁹

You can also require the customer to pay any other bills that are properly due.¹⁹⁰

¹⁸⁵ Energy retail code, clause 59A(1) (Standard complaints and dispute resolution procedures).

¹⁸⁶ General exemption order, clause 9(2) (Informed consent and provision of information).

¹⁸⁷ General exemption order, clause 11(1).

¹⁸⁸ Energy retail code, clause 29(1) and (2) (Billing disputes).

¹⁸⁹ Energy retail code, clause 29(4)(a) (Billing disputes).

¹⁹⁰ Energy retail code, clause 29(4)(b) (Billing disputes).

6.20.2. Checking meter reads, data and testing meters

If the customer asks, as part of the review of a bill, that the meter reading or meter data be checked or the meter tested, you must arrange for the meter reading or metering data to be checked or have the meter tested.

If the meter or metering data is faulty or incorrect, you cannot charge the customer for the cost of that check or test. If the meter or metering data is not faulty or incorrect, you can charge the customer for the cost of that check or test, **but you must not ask for that payment in advance.**¹⁹¹

6.20.3. Telling customers about the outcome of the review

Once you have completed your review, you must tell the customer about the outcome of that review as soon as reasonably possible and no later than any time limits set out in your complaints and dispute resolution procedures.¹⁹² You must also tell the customer that if they are not satisfied with the outcome of the review, they may lodge a dispute with the energy ombudsman.¹⁹³

After completion of your review, if you are satisfied that the bill is correct, you may require the customer to pay the amount of the bill that is outstanding. If you are satisfied that it is incorrect, you must adjust the bill and may require the customer to pay any amount of the bill that is still outstanding.¹⁹⁴

6.21. Shortened collection cycles (VD1 and VR1 only)

Some exempt retailers (VD1 and VR1) may place non-residential customers on a shortened collection cycle.

They can do so where the customer agrees to a shortened collection cycle. Otherwise these exempt retailers can place customers on a shortened collection cycle only if:

- they have given the customer a reminder or warning notice in two consecutive bills, and
- before the second reminder or warning notice, they have given the customer a notice informing them that:
 - receipt of the second reminder or warning notice may result in them being placed on a shortened collection cycle

¹⁹¹ Energy retail code, clause 29(5) (Billing disputes).

¹⁹² Energy retail code, clause 29(3) (Billing disputes).

¹⁹³ Energy retail code, clause 29(7) (Billing disputes).

¹⁹⁴ Energy retail code, clause 29(6) (Billing disputes).

- being on a shortened collection cycle means the customer will not receive a reminder notice until they have paid three consecutive bills by the pay-by-date
- failure to make a payment may result in arrangements being made for disconnection of electricity without a further reminder notice
- alternative payment arrangements may be available
- they can request further information from the retailer and provide a relevant telephone number.¹⁹⁵

6.21.1. Notice to customers placed on shortened collection cycles

Where a relevant exempt retailer places a customer on a shortened billing cycle, within 10 days of doing so the exempt retailer must give the customer notice that they have been placed on a shortened collection cycle, and advise:

- that the customer must pay three consecutive bills by the pay-by-date to be taken off the shortened collection cycle
- failure to make a payment may result in arrangements being made for disconnection of electricity without any further reminder.¹⁹⁶

6.21.2. Removing customers from shortened collection cycles

Where a customer has been placed on a shortened collection cycle the exempt retailer must remove the customer from that cycle as soon as practicable after the customer pays three consecutive bills by the pay-by-date, unless the customer requests that this is not done.¹⁹⁷

6.22. Security deposits (VD1 and VR1 only)

Some exempt retailers (VD1 and VR1) may require non-residential customers (being small commercial/retail customers) to provide a security deposit.¹⁹⁸ A security deposit is an amount of money paid or payable to you as security against non-payment of a bill.

You may request a security deposit from a small commercial/retail customer either at the time they request supply or during the currency of their contract.¹⁹⁹

¹⁹⁵ Energy retail code, clause 34(2)(c) (Shortened collection cycle).

¹⁹⁶ Energy retail code, clause 34(3) (Shortened collection cycle).

¹⁹⁷ Energy retail code, clause 34(4) (Shortened collection cycle).

¹⁹⁸ Energy retail code, clause 40 (Requirement for security deposit).

¹⁹⁹ Energy retail code, clause 40(1)(b) (Requirement for security deposit).

There are certain conditions that must be met before you can require a security deposit. They cannot require a security deposit from a small customer unless one of the situations in [Box 8](#) applies.²⁰⁰

Box 8: Circumstances in which an exempt retailer in category VD1 and VR1 may require a small commercial/retail customer to pay a security deposit

Exempt retailers in categories VD1 and VR1 may require a security deposit from a small commercial/retail customer where:

- the customer owes money to that retailer in relation to the supply of electricity at any premises, unless the bill is under review (as referred to in section 3.21 above) or under consideration by the energy ombudsman
- the customer has fraudulently acquired or intentionally consumed electricity otherwise in accordance with the energy laws in the past two years
- the customer has refused or failed to provide acceptable identification to the retailer
- the retailer reasonably considers that the customer has an unsatisfactory credit history
- the retailer reasonably considers that the customer has no history of paying electricity accounts or an unsatisfactory record of paying such accounts, or
- the customer has refused to provide the retailer with permission to obtain a credit check of their credit history and other information relating to their credit history.

6.22.1. Telling customers about unsatisfactory credit history

If you require a security deposit from a small commercial/retail customer because the customer has an unsatisfactory credit history, you must tell the customer that you have decided the customer has an unsatisfactory credit history, the reasons for that decision, and that the customer may dispute that decision.²⁰¹

²⁰⁰ Energy retail code, clause 40(2) (Requirement for security deposit).

²⁰¹ Energy retail code, clause 40(5) (Requirement for security deposit).

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6.22.2. Prohibition on refusing to sell electricity

You must not refuse to sell electricity to small commercial/retail customers on the grounds of non-payment or partial payment of a security deposit. However, you may arrange to de-energise or disconnect the premises or refuse to arrange re-energisation of the premises.²⁰²

6.22.3. Credit checks

In deciding whether or not to require a small commercial/retail customer to pay a security deposit, you must request that the customer provide them with permission to obtain a credit check and other information relating to their credit history which is reasonably required for you to assess the ability of the customer to meet their financial obligations under their contract. You must take into consideration that information and any other available information relating to the credit history of that customer.²⁰³

6.22.4. Maintenance of security deposits

Security deposits must be kept in a separate account and you must separately identify in your company accounts the total amount of security deposits that you hold for small commercial/retail customers.²⁰⁴ You must pay interest to the customer on their security deposit at the 'bank bill rate', which accrues daily and is to be capitalised (if it is not paid out) every 90 days.²⁰⁵

6.22.5. Maximum security deposit

The security deposit required from a small commercial/retail customer must not exceed 37.5% of the customer's estimated bills over a 12-month period based on their billing history or the average usage of energy by a similar customer over a comparable 12-month period.²⁰⁶

6.22.6. Using a security deposit

A security deposit (and any accrued interest) may only be used to offset amounts owed by a small commercial/retail customer if:

²⁰² Energy retail code, clause 40(6) (Requirement for security deposit).

²⁰³ Energy retail code, clause 39(1) (Consideration of credit history).

²⁰⁴ Energy retail code, clause 41(3) (Payment of security deposit).

²⁰⁵ The 'bank bill rate' is the daily published rate no less than the pre-tax rate of return the retailer would earn over the period the retailer retails the security deposit if it were invested in bank bills that have a term of 90 days:
Energy retail code, clause 43(3) (Interest on security deposit).

²⁰⁶ Energy retail code, clause 42 (Amount of security deposit).

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- the customer fails to pay a bill and that failure results in de-energisation of the customer's premises by the retailer and the customer does not have a contractual right to re-energisation, or
- in relation to the issue of a final bill, the customer either vacates the premises, requests de-energisation of the premises, or transfers to another retailer.²⁰⁷

Within 10 business days of applying the customer's security deposit, you must tell the customer how you have applied that deposit (and any accrued interest) to amounts the customer owes.²⁰⁸

6.22.7. Refunding security deposits

Where you issue a final bill that includes amounts for goods and services other than electricity, you must apply the security deposit (and any accrued interest) in satisfaction of the charges for the sale of electricity unless the customer directs otherwise or the customer agrees to some different apportionment.²⁰⁹

You must repay any security deposit (and any accrued interest) within 10 business days after the customer:

- completes two years' payment by the due dates for bills, or
- vacates the premises, requests de-energisation, or transfers to another retailer and where not all the security deposit (and any accrued interest) is used to offset amounts owing by the customer.²¹⁰

You must make any repayment of the security deposit in accordance with the customer's reasonable instructions. If no reasonable instructions are given, you must credit the amount of the security deposit (and any accrued interest) on the customer's next bill (if they are a continuing customer) or on the customer's final bill (if they are vacating the premises), request de-energisation, or are transferring to another retailer.²¹¹

6.23. Termination of agreements

An arrangement between you and a customer will terminate on the first occurring of the following circumstances:

²⁰⁷ Energy retail code, clause 44(1) (Use of security deposit).

²⁰⁸ Energy retail code, clause 44(3) (Use of security deposit).

²⁰⁹ Energy retail code, clause 44(2) (Use of security deposit).

²¹⁰ Energy retail code, clause 45(1) (Obligations to return security deposit).

²¹¹ Energy retail code, clause 45(2) (Obligations to return security deposit).

- on a date agreed between you and that customer
- when you supply services to that premises under an arrangement with a different customer
- when the customer transfers to another supplier and that supplier commences supply to the customer
- 10 business days after the customer's premises are de-energised if there is no contractual right to re-energisation, or
- if the arrangement specifies some other date or event, on that date or event.²¹²

A term or condition of the arrangement between you and a customer cannot require a customer to give more than 20 business days' notice to terminate the arrangement.²¹³

6.24. Miscellaneous

6.24.1. Liabilities and immunities

You must not include a term or condition in an arrangement with a customer that limits your liability for breach of the arrangement or negligence by you.²¹⁴

6.24.2. Indemnities

You must not include a term or condition in an arrangement with a customer under which the customer indemnifies you, so that you may recover from the customer an amount greater than the retailer would otherwise have been able to recover at general law for breach of contract or negligence by the customer.²¹⁵

6.24.3. Obligations of exempt persons where customer has not entered into arrangement for the sale and supply of electricity

If you become aware that a customer is consuming electricity without entering into an arrangement with you, you must, as soon as practicable, provide the customer with:

- your contact information
- details of the prices, terms and conditions applicable to the sale of electricity to that premises under an arrangement with you, and

²¹² Energy retail code, clause 49(1) (Termination).

²¹³ Energy retail code, clause 49(2) (Termination).

²¹⁴ Energy retail code, clause 51 (Liabilities and immunities).

²¹⁵ Energy retail code, clause 52 (Indemnities).

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- information about the consequences for the customer not entering into an arrangement with you, including de-energisation of the premises and the details for de-energisation.²¹⁶

If you were previously supplying that customer under a fixed-term arrangement that has come to an end (a ‘carry-over’ customer), you do not have to provide the customer with the information set out above if you have already given them the information you were required to give them about the fixed term arrangement coming to an end (see section 3.18 above).

6.24.4. Referral to interpreter services

Some exempt retailers (VD2, VR2, VR3 and VR4) are under an obligation to refer residential customers to a relevant interpreter service if a referral is necessary or appropriate to meet the needs of that customer.²¹⁷

6.24.5. Where customer has not fulfilled obligation and is not owner of premises

Where a customer has been unable to fulfil an obligation in respect of premises under their arrangement with you, including access to premises, because they are not the owner of the premises, they will not be in breach of their arrangement with you if they take all reasonable steps to ensure that the owner or other person responsible for the premises fulfils the obligation.²¹⁸

6.24.6. Where you cease to be an exempt person

If you no longer satisfy the requirements for an exemption (a ‘last resort event’ for an exempt person) any arrangement between you and a customer will automatically terminate and the customer is not liable for any termination fee or other penalty.²¹⁹

6.25. Applicable energy retail code clauses to particular exemption categories

Energy retail code provisions applicable to deemed exempt retail activities

The specific provisions of the retail code applicable to each VD category of ‘deemed’ exempt retailer as at the date of this guide are identified in the following table:

²¹⁶ Energy retail code, clause 53A (Obligations of exempt persons).

²¹⁷ Energy retail code, clause 55(1) (Referral to interpreter services).

²¹⁸ Energy retail code, clause 69(1) (Compliance by small customer who is not owner of premises).

²¹⁹ Energy retail code, clause 70B(1) (Termination in the event of a last resort event).

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Deemed exempt retail category	Applicable retail code clauses (cII)
VD1 (metered sale <10 small commercial/retail customers)	CII 3C; 3D; 3F; 17; 20(1)(a), (2) and (3); 21; 22; 23; 24(1)(a); 25 [but not 25(k), (l), (m), (nn), (o), (p), (s), (v), (w) and (z)]; 26; 27; 28; 29; 30; 31; 32A; 32B; 34; 35 [but not 35(1)(a)]; 35A; 35B; 35C; 39; 40; 41; 42; 43; 44; 45; 46(1)-(4); 47; 47A; 48(1)-(5) [but not 48(4)(b)]; 49(1)-(3) and 49(5); 51; 52; 53A; 59A [except website publication not required]; 69; 70B(1); 107; 109; 110; 111 [but not 111(g)]; 112(1) [but only if contract requires payment of security deposit], and 112(2); 113; 114; 115(1)-(3); 116; 118; 121; 122A
VD2 (metered sale to <10 residential customers)	CII 3C; 3D; 3F; 16A; 17; 20(1)(a), (2) and (3); 21; 22; 23; 24(1)(a); 25 [but not 25(k), (l), (m), (o), (p), (q), (v), (w) and (z)]; 26; 27; 28; 29; 30; 31; 32A; 32B; 34; 35 [but not 35(1)(a)]; 35A; 35B; 35C; 46(1)-(4); 47; 47A; 48(1)-(5) [but not 48(4)(b)]; 49(1)-(3) and 49(5); 51; 52; 53A; 55; 59A [except website publication not required]; 69; 70B(1); 76; 79 [must offer assistance described in 79(1)(a), (b), (d) and (g)]; 80; 81; 83; 83C; 86; 87; 89; 90; 91; 92; 93; 107; 109; 110; 111A [but not 111A(1)(a)(vi)]; 112(2); 113; 114; 115(1)-(3); 116; 118; 121; 122A; 132; 133; 134; 135; 136; 137
VD3 (metered sale to short term holiday accommodation occupants)	CII 3F; 17; 20(1a), (2) and (3); 21; 25 [but not 25(a)-(c), (i)-(q), (s), (v)-(z)]; 32A; 32B; 51; 52
VD4 (temporary sale on construction site)	None
VD5 (sale to related company)	None
VD6 (sale in conjunction with telecommunications services)	CII 3F; 17; 20(3)
VD7 (metered sale by government agencies, ancillary to primary functions, to non-residential customers)	CII 3C; 3D; 3F; 17; 20(1)(a), (2) and (3); 21; 22; 23; 24(1)(a); 25 [but not 25(k), (l), (m), (nn), (o), (p), (s), (v), (w) and (z)]; 26; 27; 28; 29; 30; 31; 32A; 32B; 34; 35 [but not 35(1)(a)]; 35A; 35B; 35C; 39; 40; 41; 42; 43; 44; 45; 46(1)-(4); 47; 48(1)-(5) [but not 48(4)(b)]; 49(1)-(3) and 49(5); 51; 52; 53A; 59A [except website publication not required]; 69; 70B(1); 107; 109; 110; 111 [but not 111(g)]; 112(1) [but only if contract requires payment of security deposit], and 112(2); 113; 114; 115(1)-(3); 116; 118; 121; 122A

Energy retail code provisions applicable to registrable exempt retailers

The specific provisions of the retail code applicable to each VR category of 'registrable' exempt retailer as at the date of this guide are identified in the following table:

Glossary

Registrable exempt retail category	Applicable retail code clauses (cII)
VR1 (metered sale ≥10 small commercial/retail customers)	CII 3C; 3D; 3F; 16A; 17; 20(1)(a), (2) and (3); 21; 22; 23; 24(1)(a); 25 [but not 25(k), (l), (m), (o), (p), (s), (v), (w) and (z)]; 26; 27; 28; 29; 30; 31; 32A; 32B; 34; 35 [but not 35(1)(a)]; 35A; 35B; 35C; 39; 40; 41; 42; 43; 44; 45; 46(1)-(4); 47; 47A; 48(1)-(5) [but not 48(4)(b)]; 49(1)-(3) and 49(5); 51; 52; 53A; 59A [except website publication not required]; 69; 70B(1); 107; 109; 110; 111 [but not 111(g)]; 112(1) [but only if contract requires payment of security deposit], and 112(2); 113; 114; 115(1)-(3); 116; 118; 121; 122A
VR2 (metered sale to ≥10 residential customers)	CII 3C; 3D; 3F; 16A; 17; 20(1)(a), (2) and (3); 21; 22; 23; 24(1)(a); 25 [but not 25(k), (l), (m), (nn), (o), (p), (q), (v), (w) and (z)]; 26; 27; 27A; 28; 29; 30; 31; 32A; 32B; 34; 35 [but not 35(1)(a)]; 35A; 35B; 35C; 46(1)-(4); 47; 47A; 48(1)-(5) [but not 48(4)(b)]; 49(1)-(3) and 49(5); 51; 52; 53A; 55; 59A [except website publication not required]; 69; 70B(1); 76; 79 [must offer assistance described in 79(1)(a), (b), (d) and (g)]; 80; 81; 83; 83C; 86; 87; 89; 90; 91; 92; 93; 107; 109; 110; 111A [but not 111A(1)(a)(vi)]; 112(2); 113; 114; 115(1)-(3); 116; 118; 121; 122A; 132; 133; 134; 135; 136; 137
VR3 (retirement village metered sale to residential customers)	CII 3C; 3D; 3F; 16A; 17; 20(1)(a), (2) and (3); 21; 22; 23; 24(1)(a); 25 [but not 25(k), (l), (m), (nn), (o), (p), (q), (v), (w) and (z)]; 26; 27; 28; 29; 30; 31; 32A; 32B; 34; 35 [but not 35(1)(a)]; 35A; 35B; 35C; 46(1)-(4); 47; 47A; 48(1)-(5) [but not 48(4)(b)]; 49(1)-(3) and 49(5); 51; 52; 53A; 55; 59A [except website publication not required]; 69; 70B(1); 76; 79 [must offer assistance described in 79(1)(a), (b), (d) and (g)]; 80; 81; 83; 83C; 86; 87; 89; 90; 91; 92; 93; 107; 109; 110; 111A [but not 111A(1)(a)(vi)]; 112(2); 113; 114; 115(1)-(3); 116; 118; 121; 122A; 132; 133; 134; 135; 136; 137
VR4 (metered sale to caravan parks, holiday parks, residential land lease parks, manufactured home estates)	CII 3C; 3D; 3F; 16A; 17; 20(1)(a), (2) and (3); 21; 22; 23; 24(1)(a); 25 [but not 25(k), (l), (m), (nn), (o), (p), (q), (v), (w) and (z)]; 26; 27; 28; 29; 30; 31; 32A; 32B; 34; 35 [but not 35(1)(a)]; 35A; 35B; 35C; 46(1)-(4); 47; 47A; 48(1)-(5) [but not 48(4)(b)]; 49(1)-(3) and 49(5); 51; 52; 53A; 55; 59A [except website publication not required]; 69; 70B(1); 76; 79 [must offer assistance described in 79(1)(a), (b), (d) and (g)]; 80; 81; 83; 83C; 86; 87; 89; 90; 91; 92; 93; 107; 109; 110; 111A [but not 111A(1)(a)(vi)]; 112(2); 113; 114; 115(1)-(3); 116; 118; 121; 122A; 132; 133; 134; 135; 136; 137

VR5 (metered sale to large customers)	None
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Appendix 2: Electricity distribution code

This appendix focuses on obligations under the electricity distribution code for exempt distributors.

6.26. Distribution system assets

As a person or business engaged in the distribution of electricity, you are required to comply with important obligations relating to the assets that you use to distribute electricity to customers in your embedded network.

You are required to use your best endeavours to assess and record the nature, location, condition and performance of your distribution assets.²²⁰ You must also use your best endeavours to develop and implement plans for the operation and maintenance of those assets.²²¹

6.27. Quality of supply

You are subject to various requirements relating to the quality of supply of electricity over your network. These technical matters relate to:

- the nominal voltage you must maintain at the point of supply to your customers²²²
- power factor limits²²³
- harmonic levels²²⁴
- inductive interference levels²²⁵
- negative sequence voltage²²⁶
- load balance²²⁷
- voltage fluctuations at the point of connection between your system and another distributor's distribution system or between two or more customers' electrical installations.²²⁸

²²⁰ Electricity distribution code, clause 3.1(a) (Good asset management).

²²¹ Electricity distribution code, clause 3.1(b) (Good asset management).

²²² Electricity distribution code, clause 4.2 (Voltage).

²²³ Electricity distribution code, clause 4.3 (Power factor).

²²⁴ Electricity distribution code, clause 4.4 (Harmonics).

²²⁵ Electricity distribution code, clause 4.5 (Inductive interference).

²²⁶ Electricity distribution code, clause 4.6 (Negative sequence voltage).

²²⁷ Electricity distribution code, clause 4.7 (Load balance).

²²⁸ Electricity distribution code, clause 4.8 (Disturbing loads).

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If you are unsure about what you need to do to ensure that you comply with these obligations, you should seek expert advice on these technical requirements.

6.27.1. Investigating quality of supply

If a customer or exempt retailer asks you to provide information about the quality of supply a customer is receiving, you may charge a fee for that service.²²⁹ If the results of that test show that you are not complying with your obligations under the electricity distribution code, you must:

- notify each customer likely to be adversely affected by that non-compliance within five business days
- undertake an investigation into the non-compliance as soon as practicable, but in any event within 20 business days
- advise the adversely affected customers about the steps you are undertaking to comply, and
- refund any fee paid by the customer for the test.

6.27.2. Changes to a customer's electrical installation

If a customer requests, you are required to provide them with information on any requirements you have in relation to any proposed new electrical installation of the customer or changes to the customer's existing electrical installation, including advice about supply extensions.²³⁰ If requested, you must also provide advice on any facilities required to protect your equipment, how the customer should use electricity supplied to them so that it does not interfere with your system, and where the customer may obtain a copy of the standards that are given effect in the electricity distribution code.²³¹

6.28. Connecting a customer and energising a connection

You must not energise a customer's premises unless a customer's retailer requests you to do so.²³² If a customer asks you to energise their premises, you must advise the customer that their retailer must make that request.²³³ In some cases (for example, where you are operating an

²²⁹ Electricity distribution code, clause 9.1.7 (Distributor's obligations).

²³⁰ Electricity distribution code, clause 9.1.9 (Distributor's obligations).

²³¹ Electricity distribution code, clause 9.1.10 (Distributor's obligations).

²³² Electricity distribution code, clause 2.3.1(a) (No energisation).

²³³ Electricity distribution code, clause 2.3.2(a) (No energisation).

embedded network) you may be both the exempt retailer and the exempt distributor for a customer.

If the customer does not have a retailer for the address at which they are seeking supply, you are required to inform them that they have a choice of retailer.²³⁴ A customer that may be supplied by an exempt retailer has the right to elect to purchase electricity from a licensed retailer of their choice. It is a condition of an exempt person's exemption that they provide information to customers on the options for metering that would allow the customer the choice of purchasing from a licensed retailer.²³⁵

6.28.1. New connections

Where a customer has requested a connection but you are unable to energise the connection because the customer's retailer has not requested energisation, you are required to use your best endeavours to connect but not energise the relevant supply address on the date agreed with the customer. If a date has not been agreed, you must use your best endeavours to connect the supply address within 20 business days after the request.²³⁶

6.28.2. Energisation

Where a customer only requires energisation (and not connection), and the customer has provided acceptable identification,²³⁷ you must use your best endeavours to energise the customer's supply address within one business day of a request being made by the customer's exempt retailer if the request has been made by 3.00 pm.²³⁸

6.28.3. When you are not required to connect a customer

You are not required to connect a customer unless, amongst other things:

²³⁴ Electricity distribution code, clause 2.3.2(b) (No energisation).

²³⁵ General exemption order, clause 9(2) (Informed consent and provision of information).

²³⁶ Electricity distribution code, clause 2.4 (Connection without energisation).

²³⁷ Acceptable identification for a domestic customer (being a customer who purchases electricity principally for personal, houseful or domestic use) includes a driver's licence, a current passport or other form of photographic identification, a Pensioners Concession Card or other current entitlement card issued by the Commonwealth, or a birth certificate. For a business customer which is a sole trader or partnership, acceptable identification includes one of the forms of identification for a domestic customer for each of the individuals conducting the business. For business customers which are a company, acceptable identification is the company's Australian Company Number or Australian Business Number. See relevant definitions in clause 19 of the Electricity distribution code.

²³⁸ Electricity distribution code, clause 2.5 (Previous connection).

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- a certificate of electrical safety has been provided to you in relation to any electrical equipment at the customer’s premises that will be connected to your distribution system
- the customer complies with reasonable technical requirements required by you, and
- the customer provides acceptable identification.²³⁹

Where the reason for non-connection has been addressed, you are required to comply with your obligation to connect the customer as soon as practicable.²⁴⁰

6.29. Interruption of supply

There are a limited number of circumstances in which you are permitted to interrupt supply, which are set out in [Box 9](#).²⁴¹

Box 9: Circumstances in which you can interrupt supply

- Planned maintenance, repair or augmentation (upgrading) of the distribution system.
- Unplanned maintenance or repair of the distribution system where there is an immediate threat of injury or material damage to any person or property (including the distribution system).
- To shed energy because the total demand for electricity at the relevant time exceeds the total supply available.
- As required by the Australian Energy Market Operator or the system operator.
- The installation of a new supply to another customer.
- In the case of an emergency.
- To restore supply to a customer.

6.29.1. Notifying customers of planned outages and load shedding

Where an interruption is planned, you must provide each affected customer with at least four business days’ written notice of the interruption. This notice must set out the expected date, time and duration of the interruption and include a 24-hour telephone number for enquiries.²⁴²

²³⁹ Electricity distribution code, clause 2.6.1 (Conditions for connection).

²⁴⁰ Electricity distribution code, clause 2.6.2 (Conditions for connection).

²⁴¹ Electricity distribution code, clause 5.3 (A distributor’s right to interrupt supply).

²⁴² Electricity distribution code, clause 5.5.1 (Planned interruptions).

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Wherever it is reasonable and practicable to do so, you must provide prior information to customers who may be interrupted by load shedding.²⁴³

Following a planned interruption, you must use your best endeavours to restore supply as quickly as possible.²⁴⁴

In the event of an unplanned interruption or an emergency, you are required to use your best endeavours to restore supply as soon as possible, making allowance for reasonable priorities.²⁴⁵

6.30. Life support obligations

Unlike exempt retailers, for whom life support obligations apply only to certain specified categories, **all exempt distributors are subject to the life support obligations** in clause 5A.8 of the electricity distribution code.²⁴⁶ The obligations that apply to exempt distributors vary depending on whether the customer is supplied with electricity purchased off-market or on-market.²⁴⁷

As with the energy retail code, protections for premises where life support equipment is required apply from the date the premises are registered, until the date the premises are properly de-registered.

6.30.1. Life support equipment

Life support equipment is defined in exactly the same manner in the electricity distribution code as it is in the energy retail code. Refer to Appendix 1, section 6.14.²⁴⁸

6.30.2. Registering premises for required life support equipment

The 'registration process owner' – that is, the energy company responsible for registering premises as requiring life support equipment – is the first energy company to be advised by the customer that life support equipment is, or will be, required at the premises served. In most cases, the registration process owner will be the exempt retailer who has a direct commercial relationship with

²⁴³ Electricity distribution code, clause 5.4.2 (Unplanned interruptions).

²⁴⁴ Electricity distribution code, clause 5.5.2 (Planned interruptions).

²⁴⁵ Electricity distribution code, clause 5.4.1(c) (Unplanned interruptions).

²⁴⁶ Electricity distribution code, clauses 5A.8.1 through 5A.8.6. A number of other provisions in clauses 5.5 and 21 of the Electricity distribution code are made applicable to exempt distributors as well. Electricity distribution code, clause 5A.8.1 Note.

²⁴⁷ Compare Electricity distribution code, clauses 5A.8.1 through .5 (off-market obligations) to clause 5A.8.6 (on-market obligations).

²⁴⁸ Electricity distribution code, clause 19.

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the customer. However, the customer may advise an exempt distributor or a licensed retailer, of his or her need for life support equipment.

Whichever entity is advised of the need for life support equipment, that entity owns the registration process, including the process for notifying other entities in the energy supply chain of the need for special precautions being taken with respect to de-energising premises where life support equipment is located. When you are notified by an exempt retailer that a person requires life support you must register that person as requiring life support. It is up to each energy provider to determine how they maintain a register of each customer's premises.

Registering premises – off-market customers

Where a customer receives electricity purchased 'off-market', an exempt distributor when advised by a customer, or an exempt retailer, that a person residing or intending to reside at the customer's premises requires life support equipment, must:

- **within one business day** – register the premises where life support equipment is or will be located and the date from which that life support equipment is required
- (assuming you have not been advised by the exempt retailer) **within one business day** – notify any exempt retailer from whom the customer purchases electricity of the premises where life support equipment is or will be located and the date from which that life support equipment is required.²⁴⁹

Registering premises – on-market customers

Where a customer is served by a licensed retailer who purchases electricity through the National Electricity Market, an exempt distributor, when advised by a customer that a person residing or intending to reside at the customer's premises requires life support equipment, must:

- **within one business day** – register the premises where life support equipment is or will be located and the date from which that life support equipment is required
- **within five business days** – provide a customer with a **medical confirmation form** and written information explaining that the customer may be deregistered for failing to provide the medical confirmation

²⁴⁹ Energy Distribution Code, clause 5A.8.2 and Note.

- **within five business days** - determine whether the life support equipment is fuelled by both electricity and gas, and whether the customer has a different gas retailer or distributor (in which case, the customer must be advised he or she should speak to the gas retailer or distributor).²⁵⁰
- **within five business days** – advise the customer that there may be planned or unplanned interruptions or unplanned interruptions and that you are required to notify the customer of planned interruptions
- **within five business days** – provide the customer with information to help them to prepare a plan of action in the case of an unplanned energy interruption, an emergency telephone contact number for the exempt person and any distributor (exempt or otherwise), information about the types of equipment that fall within the definition of life support equipment, advice that the customer may be eligible for government concessions and rebates offered and how to access those items, and information in community languages about the availability of interpreter services and telephone numbers for the services.
- Medical confirmation forms

The medical confirmation form is a form prepared and issued by you to the customer that enables the customer to provide medical confirmation of his or her need for life support equipment. The electricity distribution code specifies details that must be included in the form. These details advise the customer of the date by which the form must be returned to you and of the customer's opportunity to request an extension of time to complete and return the form. You must give the customer a minimum of 50 days to provide medical confirmation (and on request, give the customer at least one extension of a minimum of 25 days). The electricity distribution code also requires exempt distributors to provide at least two written reminder notices to the customer and specifies the time when those notices must be provided as well as their contents.²⁵¹

Where a customer fails to provide medical confirmation by the required date you may de-register the customer's premises only after you have complied with the requirements for providing reminders, have taken reasonable steps to contact the customer, have provided the customer with a deregistration notice and the customer has still not provided medical confirmation. It is important you familiarise yourself with the detail of this process.²⁵²

²⁵⁰ Energy Distribution Code, clause 5A.8.6(a). If the customer is served by a different gas retailer, you must inform the customer that they should speak to their gas retailer.

²⁵¹ Electricity distribution code, clauses 5A.8.6(c) and 5A.4.1

²⁵² Electricity distribution code, clause 5A.8.6(c) and 5A.4.1(b).

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6.30.3. Ongoing obligations in relation to life support

An exempt distributor has ongoing obligations in relation to premises that have been registered as requiring life support equipment. These obligations apply from the date the premises are registered until the date they are de-registered.

As with the registration process, your ongoing life support obligations vary depending on whether the customer is served by an exempt retailer (off-market) or a licensed retailer (on-market).

Ongoing obligations – off-market customers

Where you register a customer's premises as requiring life support equipment, you must provide relevant information to the customer's exempt retailer, unless the information was provided by the exempt retailer. In addition, if the exempt retailer provides any updates to the life support equipment requirements or contact details for the registered premises, the exempt distributor must update its register.

Except in the case of an interruption (planned or unplanned) or an emergency, you must not disconnect service for the premises from the date life support equipment has been registered as being required, until the date the premises have been validly deregistered. If you plan to interrupt service, you must give the customer at least **four business days** prior written notice of the interruption, unless more notice is reasonably necessary; and can be accommodated.²⁵³ If another distributor plans to interrupt the life support customer's service, you must give written notice of the interruption within **one business day** from your receipt of notification.²⁵⁴ The notice must specify the expected date, time and duration of the interruption and provide a 24-hour telephone number for fault enquiries and emergencies.²⁵⁵

Ongoing obligations – on-market customers

When advised by a customer, licensed retailer or exempt distributor of any updates to the life support equipment requirements, you must update your register **within one business day**.²⁵⁶

Except in the case of an interruption (planned or unplanned) or an emergency, you must not disconnect service for the premises from the date life support equipment has been registered as being required, until the date the premises have been validly deregistered. If you plan to interrupt

²⁵³ Electricity distribution code, clauses 5A.8.3 and 5.5.1.

²⁵⁴ Electricity distribution code, clause 5A.8.3.

²⁵⁵ Electricity distribution code, clauses 5A.8.3 and 5.5.2.

²⁵⁶ Electricity distribution code, clause 5A.8.6.

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service, you must give the customer at least **four business days** prior written notice of the interruption, unless more notice is reasonably necessary; and can be accommodated. When notified by a distributor about a planned interruption, you must provide the affected customer with written notice (**within one business day**). That notice must provide the expected date, time and duration of the interruption and include a 24-hour telephone number for fault enquiries and emergencies.²⁵⁷

6.30.4. De-registering life support customers

Deregistration obligations for exempt distributors, again, vary depending on whether the customer receives electricity that has been purchased off-market or on-market.

De-registration – off-market customers

Where an exempt retailer notifies you that it has deregistered a life support customer's premises, you must update your registration for the premises. Your obligation to maintain supply to registered life support premises cease once the customer's premises have been validly deregistered.²⁵⁸

De-registration – on-market customers

Where customers' purchase electricity on-market, you may de-register life support premises in two circumstances:

- where medical confirmation of the requirement for life support is not provided within 50 business days (or any agreed extension period)
- where the life support equipment is no longer needed or the person for whom the equipment was required has vacated the premises.²⁵⁹

In both instances, an exempt distributor must provide notice to the customer before de-registering the premises.

Where the required medical confirmation is not provided by the date it is due (including any extensions), you may de-register the premises but only if you have complied with all the following steps:²⁶⁰

²⁵⁷ Electricity distribution code, clauses 5A.8.6(e) and 5.5.1.

²⁵⁸ Electricity distribution code, clause 5A.8.4.

²⁵⁹ Electricity distribution code, clause 5A.8.6(i).

²⁶⁰ Electricity distribution code, clause 5A.8.6(h).

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- You provide the customer with a written notice that addresses specific matters required by the electricity distribution code. These matters include specifying the date on which the customer's premises will be deregistered and advising that the customer must contact you if the person for whom life support equipment is required has not vacated the premises or still requires life support equipment
- You must have previously sent at least two written medical confirmation reminder notices to the customer
- You must have taken reasonable steps to contact the customer who has failed to provide the medical confirmation, either personally, by telephone or by electronic
- Finally, the electricity distribution code requires you to also provide a deregistration notice to the customer at least 15 business days after issuing the second confirmation reminder notice. The electricity distribution code specifies what must be included in a deregistration notice.

Even where the customer advises you that the circumstances have changed and that life support equipment is no longer required at the premises, you must not de-register the premises unless all you provide written notification to the customer:

- confirming that the customer has advised you of the relevant change in circumstances;
- advising of the date on which the premises will be de-registered, which must be at least 15 business days from the notification's date (unless the customer or the customer's authorised representative gives explicit informed consent to de-register the premises sooner, in which case you must make a record of such consent and keep it for at least two years)
- advising that the customer will no longer receive life support protection after deregistration
- directing the customer to contact you prior to the deregistration date if the circumstances have not changed (i.e., the person still requires life support equipment or has not vacated the premises).

At any time, you may request a customer whose premises have been registered as requiring life support equipment to confirm that there is a continued need for life support equipment at the address.²⁶¹

If you de-register the life support customer's premises, you must update your register within **one business day**.²⁶²

²⁶¹ Electricity distribution code, clause 5A.8.6(i).

²⁶² Electricity distribution code, clause 5A.8.6.

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6.30.5. Registration and deregistration details to be kept

You must establish policies, systems and procedures for registering and deregistering premises requiring life support equipment. You must also ensure that life support equipment registration and deregistration details are kept up to date.²⁶³

6.31. Disconnection

There are a limited number of circumstances in which you may disconnect a customer, and in which you must disconnect a customer. The circumstances in which you **may** disconnect a customer are set out in [Table 6](#). The circumstances in which you **must** disconnect a customer are set out in [Table 7](#).

There are also several circumstances in which you **must not** disconnect a customer. These are outlined in [Table 8](#).²⁶⁴

6.31.1. When you may disconnect a customer

Table 6: Circumstances in which you **may** disconnect a customer²⁶⁵

You **may** disconnect a customer in the circumstances set out below.

Non-compliance

You **may** disconnect supply:

- where the customer has not fulfilled an obligation to comply with the electricity distribution code
- you have given the customer five business days' written notice of disconnection (in addition to the notice you are required to give discussed in paragraph 4.12 below), and
- the customer fails to comply with the notice or enters an arrangement to comply but fails to comply with that arrangement.

Health, safety or emergency

²⁶³ Energy Distribution Code, clauses 5A.8.5 and 5A.8.6(j).

²⁶⁴ Electricity distribution code, clause 12.6 (No disconnection).

²⁶⁵ Electricity distribution code, clauses 12.1 (Non-compliance), 12.2 (Health, safety or emergency), and 12.5 (Illegal supply).

You **may** disconnect supply if supply would potentially endanger or threaten to endanger the health or safety of any person or the environment or if there is otherwise an emergency.

Illegal supply

You **may** disconnect supply immediately if:

- the supply of electricity to a customer's premises is used other than at that premises
- a customer takes at its supply address electricity supplied to another supply address
- a customer tampers with the meter or associated equipment, or
- a customer allows electricity supplied to its address to bypass the meter.

6.31.2. When you must disconnect a customer

Table 7: Circumstances in which you **must** disconnect a customer²⁶⁶

You **must** disconnect a customer in the circumstances set out below.

Retailer request

You **must** disconnect supply to a customer's address if the customer's retailer requests disconnection. Where you are able to disconnect supply remotely and you reasonably believe you can do so safely, you must use your best endeavours to do so within two hours (subject to the time for disconnection set out in [Table 8](#)).

Customer request

You **must** disconnect supply to a customer's address if the customer has requested disconnection. You must use your best endeavours to disconnect supply in accordance with the customer's request. Where you are able to disconnect supply remotely and you reasonably believe you can do so safely, you must use your best endeavours to disconnect supply within two hours (subject to the time for disconnection set out in [Table 8](#)).

6.31.3. When you must not disconnect a customer

Table 8: Circumstances in which you **must not** disconnect a customer

²⁶⁶ Electricity distribution code, clauses 12.3 (Retailer's request) and 12.4 (Customer's request).

You **must not** disconnect a customer in the circumstances set out below.

Time for disconnection

Unless agreed with the customer, in an emergency or where the customer is illegally taking supply (see [Table 6](#)), you **must not** disconnect supply:

- before 8.00 am or after 2.00 pm (for a domestic customer) or 3.00 pm (for a business customer) on a weekday; or
- on a Friday, weekend, public holiday or the day before a public holiday.

Life support equipment

You **must not** disconnect supply if the customer's supply address is registered as a life support equipment supply address, unless there is an emergency.

Non-compliance

You **must not** disconnect supply for non-compliance by the customer with the electricity distribution code:

- if the customer is a tenant and is unable to remedy the non-compliance because the customer is not the owner of the supply address, and the tenant has used their best endeavours to have the person responsible for the supply address fulfil the relevant obligation, or
- there is a dispute between the customer and you which has been notified by the customer under your customer complaints handling process and is still being dealt with by you or the Energy and Water Ombudsman (Victoria) or another external dispute resolution body.

Endangering the health or safety of any person

You **must not** disconnect supply where you reasonably consider that doing so would immediately endanger the health or safety of any person.

6.32. Reconnection of supply

Following disconnection of a customer, you **must** reconnect the customer at the request of the customer or the customer's retailer in the circumstances set out below.

- If you disconnected the customer because of non-compliance with the electricity distribution code, and the customer remedies that non-compliance within 10 business days of disconnection.

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- If you disconnected the customer for the reason of health, safety or emergency, and within 10 business days of disconnection the customer has eliminated the cause of the danger.
- If you disconnected the customer at the request of a retailer.²⁶⁷

Reconnection may be subject to any other applicable laws and codes, as well as the customer paying any reconnection charge.²⁶⁸

6.32.1. When you must reconnect a customer

You **must** reconnect a customer where it is safe to do so and in accordance with the following timeframes:

- on the day of request:
 - where the request for reconnection is made before 3.00 pm on a business day, or
 - where the request is made before 9.00 pm and the customer pays any applicable additional after hours reconnect charge
- on the next business day after the request where the request for reconnection is made after 3.00 pm on a business day
- where the distributor is able to reconnect the customer remotely, the distributor must use its best endeavours to reconnect the customer within two hours of a reconnection request being validated by the distributor.²⁶⁹

The customer and you can agree to later timeframes from those set out above.²⁷⁰

6.32.2. Contents of disconnection warning notices

Where you issue a disconnection warning notice, you are required to include information about the customer's right to refer a complaint to the Energy and Water Ombudsman (Victoria).²⁷¹

6.32.3. Leaving information at customer premises

When you disconnect supply to premises where the customer is vacating or has vacated the premises, you must leave at that address a document provided by the commission which sets out:

- to whom the occupant must address any request to connect the supply address

²⁶⁷ Electricity distribution code, clause 13.1.1 (Reconnection of supply).

²⁶⁸ Electricity distribution code, clause 13.1.1 (Reconnection of supply).

²⁶⁹ Electricity distribution code, clause 13.1.2 (Reconnection of supply).

²⁷⁰ Electricity distribution code, clause 13.1.3 (Reconnection of supply).

²⁷¹ Electricity distribution code, clause 10.1.3 (Complaints and dispute resolution).

- what the occupant's options are for entering into a contract for the sale of electricity with a retailer, and
- a list of current retailers.²⁷²

6.33. Confidentiality of information

The electricity distribution code places certain obligations on you when dealing with confidential information. Under the electricity distribution code, confidential information is information about a customer or information provided to you under an obligation of confidence.²⁷³

You must not provide confidential information to any person unless you are permitted to do so by the electricity distribution code. You must also only use or reproduce confidential information for the purpose for which it was provided under the Code, or a purpose permitted by the Code, or where the customer has otherwise consented to its use in some other manner.²⁷⁴ The electricity distribution code provides for a number of situations in which the prohibition on the disclosure, use or reproduction of information does not apply, as set out in [Table 9](#).

[Table 9: Exceptions to the prohibition on the disclosure, use or reproduction of confidential information](#)

The restriction on the use of confidential information does not prevent disclosure, use or reproduction of information in the following circumstances:

Public domain – the disclosure, use or reproduction of information if the information is generally and publicly available other than as a result of a breach of confidence by you.

Employees and advisers – the disclosure of information to your employees or officers or to a related body corporate, or your legal or other professional advisers, auditor or consultants that require the information for the purposes of the Code, for advising you, or for planning or augmenting your distribution system. You must tell the person you are giving the information to that it is confidential and take precautions to ensure the recipient keeps the information confidential and does not use it for any purpose other than the permitted purpose.

²⁷² Electricity distribution code, clause 9.1.13 (Distributor's obligations). You are not required to provide this document where the disconnection is done remotely and your 24-hour telephone number is set out on the meter: Electricity distribution code, clause 9.1.13.1 (Distributor's obligations).

²⁷³ Electricity distribution code, clause 19 (Definitions), definition of 'Confidential information'.

²⁷⁴ Electricity distribution code, clause 9.4.1 (Confidentiality).

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Consent – disclosure, use or reproduction of the information with the informed written consent of the person who provided the information.

Law – the disclosure, use or reproduction of the information to the extent required by law.

Disputes – the disclosure, use or reproduction of information if required in connection with legal proceedings, arbitration, expert determination or other dispute resolution mechanism, or for the purpose of advising a person in relation to such matters.

Trivial – disclosure, use or reproduction of information which is trivial in nature.

Safety – the disclosure of information where required to protect the safety of personnel or equipment.

Potential investment – the disclosure, use or reproduction of information to the extent reasonably required in connection with your financing arrangements, investment in or a disposal of your assets. You must tell the person you are giving the information to that it is confidential and take precautions to ensure the recipient keeps the information confidential and does not use it for any purpose other than the permitted purpose.

Regulator – the disclosure of information to the Australian Competition and Consumer Commission, or any other regulator with jurisdiction over the distributor under the electricity distribution code or otherwise.

Aggregate sum – the disclosure, use or reproduction of information as an unidentifiable component of an aggregate sum.

6.34. Widespread interruption

Where there is a ‘widespread supply event’ (which constitutes major, widespread distribution-level electricity supply shortages in Victoria), you are required to inform the Victorian Department of Health and Human Services of the street address of any point of supply (unless it is a non-residential point of supply) immediately upon forming the view that an interruption at that location will last for more than 24 hours.²⁷⁵

You are required to provide information about the street address of any point of supply the subject of a sustained interruption within 28 hours of a sustained interruption occurring and for every 12

²⁷⁵ Electricity distribution code, clause 5.7.1(a) (Informing government departments).

hours thereafter until the interruption has been resolved.²⁷⁶ The information is required to be provided in the manner and format agreed between you and the Department.²⁷⁷

6.35. Emergency Response Plans

You are required to develop and test emergency response plans in co-ordination with relevant organisations.²⁷⁸

You are also required to comply with the 'Single Industry Spokesperson Process in Victoria' protocol.²⁷⁹ This protocol applies to major, widespread distribution-level electricity supply shortages in Victoria. The kind of situations where it may be activated are where more than 100,000 customers across the Melbourne metropolitan area are affected by electricity supply outages, or where there is the prospect of lengthy restoration (longer than 24 hours) affecting a large number of customers.²⁸⁰ The protocol is directed at ensuring that media, customers and the general public receive coordinated and timely responses that communicate agreed key messages and advice about the status of a widespread electricity emergency.

6.36. Non-compliance with the electricity distribution code

If you breach the electricity distribution code, you are required to remedy that breach as soon as practicable.²⁸¹

6.36.1. Notifying customers of your breaches

Where you become aware of a failure to comply with the electricity distribution code that could reasonably be expected to have a material, adverse impact on a customer, you must:

- notify each customer likely to be adversely affected by that non-compliance within five business days
- undertake an investigation into the non-compliance as soon as practicable, but in any event within 20 business days

²⁷⁶ Electricity distribution code, clause 5.7.1(b) (Informing government departments).

²⁷⁷ Electricity distribution code, clause 5.7.1(b) (Informing government departments).

²⁷⁸ Electricity distribution code, clause 8.1 (Distributors' own plans).

²⁷⁹ Electricity distribution code, clause 8.2 (Single industry spokesperson protocol).

²⁸⁰ Australian Energy Market Operator, *Single Industry Spokesperson Protocol for Electricity in Victoria*, January 2019, p 5.

²⁸¹ Electricity distribution code, clause 11.1 (Distributor's obligation to remedy).

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- advise the customer of the steps you are taking to address the non-compliance.²⁸²

6.36.2. Notifying customers who are in breach of their obligations

If you become aware that a customer is in breach of any of their obligations under the electricity distribution code, which is not of a trivial nature, you must notify the customer, in writing and using plain English of the following:

- details of the non-compliance and its implications, including any impact on you and other customers
- actions that the customer could take to address the non-compliance
- a reasonable time period in which compliance must be demonstrated
- any consequences of non-compliance
- your procedure for handling complaints.²⁸³

6.37. Electricity customer metering code

You are required to comply with the Electricity Customer Metering Code.²⁸⁴

6.38. Miscellaneous

6.38.1. Liability

You must not include any term or condition in your contracts with customers to limit your liability to the customer for any breach by you of the contract or for any negligence by you in relation to the contract.²⁸⁵

You may however include terms and conditions that limit your liability to:

- in the case of goods:
 - replacement of the goods or the supply of equivalent goods
 - repair of the goods or the cost of having the goods repaired
 - the cost of replacing the goods or of acquiring equivalent goods
- in the case of services:

²⁸² Electricity distribution code, clause 11.2.1 (Notification to customers).

²⁸³ Electricity distribution code, clause 11.2.2 (Notification to customers).

²⁸⁴ Electricity distribution code, clause 14 (Electricity Customer Metering Code). The Code can be found at: <https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-policies-and-manuals/electricity-customer-metering-code>.

²⁸⁵ Electricity distribution code, clause 16(a) (Liability).

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- supply of the services again or
- the cost of having the services supplied again.²⁸⁶

You may also include terms and conditions under which the customer acknowledges the extent of your responsibility for the quality and reliability of electricity supply under their contract.²⁸⁷

6.38.2. Indemnity

You must not include in contracts with customers an indemnity or other term or condition that has the effect of entitling you to recover from the customer, if the customer breaches the contract or if the customer is negligent, any amount greater than that which you would be entitled to as compensation for the customer's breach or negligence under common law or statute.²⁸⁸

6.38.3. Contractual force majeure

If an event occurs (a 'force majeure' event) that is outside your reasonable control, the obligations you have under a contract with a customer are suspended to the extent they are affected by that event and for so long as the event continues. You are required to give prompt notice to affected customers of the fact that an event has occurred that is outside of your control, full details of the event, an estimate of its likely duration, the obligations that are affected by the event and the extent they are affected, and the steps taken to remove, overcome or minimise its effects.²⁸⁹

Where the effects of a force majeure event are widespread, you will be taken to have given prompt notice if you make the necessary information available by way of a 24-hour telephone service within 30 minutes of being advised of the event or otherwise as soon as practicable.²⁹⁰

If you claim that a force majeure event has occurred, you must use your best endeavours to remove, overcome or minimise the effects of the event as quickly as possible.²⁹¹

6.38.4. Electricity Distribution Code provisions applicable to exempt persons

Exempt distributors are required to comply with all provisions of the electricity distribution code except for certain clauses that are not applicable to exempt persons. The clauses of the electricity distribution code that do not apply are set forth in the table below.

²⁸⁶ Electricity distribution code, clause 16(b)(1) (Liability).

²⁸⁷ Electricity distribution code, clause 16(b)(2) (Liability).

²⁸⁸ Electricity distribution code, clause 17 (Indemnity).

²⁸⁹ Electricity distribution code, clause 18(a) (Contractual force majeure).

²⁹⁰ Electricity distribution code, clause 18(b) (Contractual force majeure).

²⁹¹ Electricity distribution code, clause 18(d) (Contractual force majeure).

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Table 10: Clauses of the distribution code not pertaining to exempt persons

Excluded distribution code clauses	Subject matter
2.2	Distributor obligation to use best endeavours to connect customer at new supply address
3.1(c)	Distributor obligation to develop, test or simulate and implement contingency plans to deal with events that have a low probability of occurring but are realistic and would have substantial impact on customers
3.2	Customer obligations to use best endeavours to ensure customer's electrical installations are safe and do not adversely impact the distribution system
3.3	Customer obligations must not interfere with, and maintain, distributor's system or equipment on customer premises
3.4	Distributor's obligation to submit transmission connection planning reports to commission
3.5	Distributor's obligation to submit distribution system planning reports to commission
4.1	AEMO responsibility for maintaining frequency of 50 Hz on distribution system
4.2.6	Distributor obligation to monitor and record steady state voltage and voltage variations at zone substations
4.2.7	Distributor obligation to compensate any person whose property is damaged by voltage variations beyond code limits
4.9	Distributor obligation to monitor the quality of supply
5.2	Distributor obligation to use best endeavours to meet reliability of supply targets and otherwise meet reasonable customer expectations of reliability of supply
5.4.1(a)	Distributor obligation to make available, by phone and website, information regarding unplanned or emergency interruptions of supply within 30 minutes of being advised
5.4.1(b)	Distributor obligation to provide options for customers to connect to telephone operator in the event of unplanned or emergency supply interruptions
5A.1	Distributor obligations regarding life support equipment generally
5A.2	Distributor obligation to meet objective of cl 5A regarding life support equipment
5A.3	Distributor obligations to register customer's life support equipment when advised by customer
5A.4	Distributor obligation to confirm supply address requiring life support equipment

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5A.5	Distributor ongoing obligations with respect to life support equipment
5A.6	Distributor obligation not to deregister supply address for life support equipment
5A.7	Distributor obligation to keep life support equipment registration and deregistration details
6.1	Distributor obligation to meet guaranteed service level for appointments with customers
6.2	Distributor obligation to compensate customer for failing to supply customer address on agreed date
6.3	Distributor obligation to make supply restoration and low reliability payments to customers
6.4	Time for payments by distributor due under cl 6
7	Distributor obligations relating to embedded generators
9.1.1	Distributor obligation to provide cl 5.1 targets information to customers
9.1.2	Distributor obligation to provide a Customer Charter to customer and commission
9.1.3	Required contents of distributor's Customer Charter
9.1.4	Distributor obligation to provide copy of distribution code to customer on request
9.1.5	Distributor obligation to provide customer information relating to quality of supply
9.1.6	Distributor obligation to provide customer information relating to reliability of supply
9.1.11	Distributor obligation to install, maintain and make available to retailer a system for timely electronic transfer of information between retailer and distributor relating to connection, disconnection or reconnection of supply
9.1.12	Distributor obligation to provide customer access to multi-lingual services
9.2	Customer obligations to provide information to distributor or retailer of changes affecting service at supply address
9.3	Customer, embedded generator and retailer obligations to provide information requested by distributor for planning purposes
10.1.2(b)	Distributor obligation, when responding to customer complaint, to refer the complaint to the ombudsman and provide such information in writing
15	Limited distributor rights to impose additional distribution charges

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