

## Annex D: Proposed consequential amendments to align other codes of practice and guidelines with the new Energy Retail Code of Practice

We have identified the following codes of practice, guidelines, guidance notes and other documents that contain references to the Energy Retail Code and will require consequential amendments:

<b>Codes</b>	<ul style="list-style-type: none"> <li>• Electricity Distribution Code of Practice (see appendix E)</li> <li>• Gas System Distribution Code of Practice (see appendix F)</li> <li>• Electricity Customer Metering Code of Practice</li> <li>• Electricity Customer Transfer Code of Practice</li> </ul>
<b>Guidelines</b>	<ul style="list-style-type: none"> <li>• Compliance and Performance Reporting Guideline</li> <li>• Energy Fact Sheet Guidelines</li> <li>• Guideline: Advertising energy prices</li> <li>• Guideline: Exemptions from complying with Energy Retail Code requirements to restrict market retail contract price increases to once a year</li> <li>• Guideline: Maximum cap for pay-on-time discounts</li> <li>• Guideline: Supporting utility relief grant applications</li> <li>• Guideline 13: Electricity Industry – Greenhouse Gas Disclosure On Electricity Customers Bills</li> <li>• Registration Guideline for Exempt Persons</li> </ul>
<b>Guidance notes</b>	<ul style="list-style-type: none"> <li>• Energy Compliance and Enforcement Policy: Guidance note – payment difficulty and disconnection</li> <li>• Guidance notes 1-8 (2020):               <ul style="list-style-type: none"> <li>– De-energisation (or disconnection) of premises (small customers)</li> <li>– Clear and unambiguous information or advice for residential customers anticipating or facing payment difficulties</li> <li>– Payment arrangements and the written schedule of payments for residential customers anticipating or facing payment difficulties</li> <li>– Contacting customers eligible for tailored assistance: clause 80(2)</li> <li>– Contacting customers receiving tailored assistance to discuss revising their plan, clause 81(6)</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>– Considering customers' circumstances when discontinuing their tailored assistance, clauses 83(1), 89(1)(aa) and (a)</li> <li>– Preventing disconnections of customers receiving assistance under Part 3: clause 116(1)(d)</li> <li>– Additional retail charges in standard retail contracts</li> </ul>
<b>Licences</b>	<ul style="list-style-type: none"> <li>• Licences will need to be varied to reflect the transition of the Energy Retail Code to a code of practice and other changes required as a result of the proposed changes to the enforcement framework. This will be a separate process undertaken in 2022.</li> </ul>
<b>Other documents</b>	<ul style="list-style-type: none"> <li>• Energy Compliance and Enforcement Policy</li> <li>• Better practice in responding to family violence</li> </ul>

This document identifies references to the Energy Retail Code contained in the above documents, and sets out how we propose to amend these to align with new clause numbering in the Energy Retail Code of Practice. The majority of amendments are only to update clause numbering, or update general references to the 'Energy Retail Code' to the 'Energy Retail Code of Practice'.

We intend to publish updated versions of the codes of practice, guidelines and guidance notes following our final decision on making the Energy Retail Code of Practice, once the new code of practice has taken effect.

This document does not include proposed updates to the following documents:

- **Electricity Distribution Code of Practice and Gas Distribution System Code of Practice.** These proposed amendments are set out in Annexes E and F respectively.
- **Compliance and Performance Reporting Guideline.** We are currently consulting separately on our review of breach reporting requirements.<sup>1</sup> This process includes making consequential amendments required as a result of the new Energy Retail Code of Practice.
- **Energy Compliance and Enforcement Policy.** We are currently updating this policy to reflect the proposed new enforcement framework that would be implemented by the Essential Services Commission (Compliance and Enforcement Powers) Amendment Bill 2021. We will make any consequential amendments required as a result of the new Energy Retail Code of Practice as part of this update.
- **Energy Compliance and Enforcement Policy: Guidance note – payment difficulty and disconnection.** We are currently reviewing the payment difficulty framework, as part of which we will update this guidance note. We therefore do not propose to update the note with new Energy Retail Code of Practice clause references at this time. However, if you feel strongly that

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<sup>1</sup> Available on our webpage: <https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-and-policies/compliance-and-performance-reporting-guideline/updates-compliance-performance-reporting-guideline>.

an updated version of this guidance note would be beneficial before the review is completed, please raise this in your submission to this consultation.

- **Guideline: Supporting utility relief grant applications.** We are proposing to move obligations from this guideline into the Energy Retail Code of Practice, and so would no longer need this guideline.

## Codes of practice

Page <sup>2</sup>	Reference to Energy Retail Code	Proposed amendment
<b>Electricity Customer Metering Code of Practice<sup>3</sup></b>		
1	In addition, the Energy Retail Code sets out minimum contractual requirements for customer billing for [...].	Replace 'Energy Retail Code' with 'Energy Retail Code of Practice'.
15	<b>"Energy Retail Code"</b> means the code of that name determined by the Commission under the Act and Gas Industry Act 2001 (Vic).	Replace this definition with: <b>"Energy Retail Code of Practice"</b> means the code of practice of that name made by the Commission under Part 6 of the Essential Services Commission Act 2001.
<b>Electricity Customer Transfer Code of Practice<sup>4</sup></b>		
10	<b>Energy Retail Code</b> means the code of that name determined by the <b>Commission</b> under the <i>Act</i> and <i>Gas Industry Act 2001</i> (Vic).	Replace this definition with: <b>Energy Retail Code of Practice</b> means the code of practice of that name made by the Commission under Part 6 of the Essential Services Commission Act 2001.
15	Appendix A lists other applicable laws and codes, including the Energy Retail Code.	Replace 'Energy Retail Code' with 'Energy Retail Code of Practice'.

<sup>2</sup> Page numbers are as referenced within each document. These may not align with PDF page numbers.

<sup>3</sup> Essential Services Commission, [Electricity Customer Metering Code](#), October 2014. This code would be deemed as a code of practice by the Essential Services Commission (Compliance and Enforcement Powers) Amendment Bill 2021.

<sup>4</sup> Essential Services Commission, [Electricity Customer Transfer Code](#), October 2014. This code would be deemed as a code of practice by the Essential Services Commission (Compliance and Enforcement Powers) Amendment Bill 2021.

## Guidelines

Page <sup>5</sup>	Reference to Energy Retail Code	Proposed amendment
<b>Energy Fact Sheet Guidelines<sup>6</sup></b>		
Start of document	NA	Add a 'version history' section to record amendments made to the guideline.
Throughout	General references to the Energy Retail Code or code (including the definition of 'code' in the glossary).	Replace with 'Energy Retail Code of Practice' or 'Code of Practice'.
1, 2, 17	References to Division 5 of Part 2A of the Energy Retail Code.	Replace with references to 'Division 4 of Part 4 of the Energy Retail Code of Practice'.
1	'[These guidelines] constitute written information issued by the commission regarding a small customer's entitlement to supporting measures under Part 2A, for the purposes of clause 70E(2) of the code'	Delete this sentence. Clause 70E of the Energy Retail Code is proposed to be deleted, along with all part-specific interpretation clauses.
3	Footnote 2: 'As set out in clause 70W of the Energy Retail Code, this requirement does not apply to exempt persons.'	Amend to remove reference to clause 70W as this has been deleted. Footnote 2: 'This requirement does not apply to exempt persons.'
1, 3, 9	References to clause 70X of the Energy Retail Code, including subclauses (1)-(5).	Replace with references to clause 39 of the Energy Retail Code of Practice (subclause numbering is unchanged).
ii, 1, 11, 12, 13, 14, 15	References to clause 70Y of the Energy Retail Code, including subclauses (1)-(12).	Replace with references to clause 40 of the Energy Retail Code of Practice (subclause numbering is unchanged).
ii, 17	References to clause 70Z of the Energy Retail Code.	Replace with references to clause 41 of the Energy Retail Code of Practice.
17	Heading of chapter: 'Evidence of compliance – clause 70Z'.	Rename to 'Record keeping – clause 41' to align with new heading of clause (NB obligations in the clause are unchanged).

<sup>5</sup> Page numbers are as referenced within each document. These may not align with PDF page numbers.

<sup>6</sup> Essential Services Commission, [Energy Fact Sheet Guidelines](#), May 2019.

Page <sup>5</sup>	Reference to Energy Retail Code	Proposed amendment
<b>Guideline: Advertising energy prices<sup>7</sup></b>		
Start of document	NA	Add a 'version history' section to record amendments made to the guideline.
Throughout	General references to the Energy Retail Code or code.	Replace with 'Energy Retail Code of Practice' or 'Code of Practice'.
1	Reference to Part 2A of the Code (the clear advice entitlement).	Replace with reference to Part 4, Division 4 of the Energy Retail Code of Practice.
1, 2, 3, 11, 12	References to Part 2, Division 10 of the Energy Retail Code.	Replace with references to Part 4, Division 5 of the Energy Retail Code of Practice.
1, 2, 11	References to Subdivision 1 of Part 2, Division 10 of the Energy Retail Code.	Replace with references to Subdivision 1 of Part 4, Division 5 of the Energy Retail Code of Practice.
2	Reference to clause 60A of the Energy Retail Code.	Delete reference (including all of paragraph 3.2). We are proposing to delete this clause, along with other 'requirement' clauses.
2, 12	References to clause 60B of the Energy Retail Code.	Replace with references to clause 43(1)(a) of the Energy Retail Code of Practice.
3	Reference to clause 60C of the Energy Retail Code.	Replace with reference to clause 44 of the Energy Retail Code of Practice.
1, 2, 3, 11	References to Subdivision 1A of Part 2, Division 10 of the Energy Retail Code, including references to clauses 60D and 60E.	Delete these references. We are proposing to delete Subdivision 1A (including clauses 60D and 60E).
1, 2, 3, 11, 12	References to Subdivision 2A of Part 2, Division 10 of the Energy Retail Code.	Replace with references to Subdivision 3 of Part 4, Division 5 of the Energy Retail Code of Practice.
2, 3, 12	References to clause 64A of the Energy Retail Code.	Replace with references to clause 43(1)(c) of the Energy Retail Code of Practice.
3	References to clause 64B of the Energy Retail Code, including subclauses (1) and (2).	Replace with references to clause 48 of the Energy Retail Code of Practice (subclause numbering unchanged).

<sup>7</sup> Essential Services Commission, [Guideline: advertising energy prices](#), February 2020.

Page <sup>5</sup>	Reference to Energy Retail Code	Proposed amendment
1, 2, 3, 4, 11	References to Subdivision 2B of Part 2, Division 10 of the Energy Retail Code.	Replace with references to Subdivision 4 of Part 4, Division 5 of the Energy Retail Code of Practice.
2, 3	References to clause 64C of the Energy Retail Code.	Replace with references to clause 43(1)(d) of the Energy Retail Code of Practice.
4	Reference to clause 64D of the Energy Retail Code.	Delete reference (including all of paragraph 6.2). We are proposing to delete clause 64 of the Energy Retail Code. Replace with reference to Australian Consumer Law.
4	Reference to clause 64E of the Energy Retail Code.	Delete reference (including all of paragraph 6.3). We are proposing to delete Clause 64E of the Energy Retail Code. Replace with reference to Australian Consumer Law.
4	References to clause 64F of the Energy Retail Code, including subclause (4).	Replace with references to clause 49 of the Energy Retail Code of Practice (subclause numbering unchanged).
4, 6, 9	NA	Consequential amendments where there are references to numbered paragraphs in section 6, to account for the removal of paragraphs 6.2 and 6.3.
2	'Energy retailers also have obligations in the Code of Conduct for Marketing Retail Energy in Victoria.'	Remove this sentence – as we are proposing to repeal the marketing code.
<b>Guideline: Exemptions from complying with Energy Retail Code requirements to restrict market retail contract price increases to once a year<sup>8</sup></b>		
Start of document	NA	Add a 'version history' section to record amendments made to the guideline.
Throughout	General references to the Energy Retail Code or code (including in the title of the guideline).	Replace with 'Energy Retail Code of Practice' or 'Code of Practice'.
2, 4	References to Subdivision 2 of Division 7 of Part 2 of the Energy	Replace with references to Division 7 of Part 5 of the Energy Retail Code of Practice.

<sup>8</sup> Essential Services Commission, [Guideline: exemptions from complying with Energy Retail Code requirements to restrict market retail contract price increases to once a year](#), February 2020.

Page <sup>5</sup>	Reference to Energy Retail Code	Proposed amendment
	Retail Code.	
1, 2, 3, 4	References to clause 46AA of the Energy Retail Code.	Replace with references to clause 94 of the Energy Retail Code of Practice.
1, 2	References to clause 52C of the Energy Retail Code, including subclause (c).	Replace with references to clause 117 of the Energy Retail Code of Practice (subclause numbering unchanged).
3, 7	References to clauses 52D, 52DA and 52E of the Energy Retail Code.	Replace with references to clauses 118, 119 and 120 of the Energy Retail Code of Practice.
4	NA	Update the commission's address from Level 37, 2 Lonsdale Street to Level 8, 570 Bourke Street.

#### Guideline: Maximum cap for pay-on-time discounts<sup>9</sup>

Para 2.1	Clause 46AB(1) of the Energy Retail Code provides a new cap on conditional pay-on-time discounts for market retail contracts.	Replace 'Clause 46AB(1) of the Energy Retail Code' with 'Clause 92(1) of the Energy Retail Code of Practice'.
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#### Guideline 13: Electricity Industry – Greenhouse Gas Disclosure On Electricity Customers Bills<sup>10</sup>

As discussed in the technical consultation paper, we are proposing to reissue Guideline 13 to apply to all customers, so obligations are contained in a single instrument. The amendments proposed below reflect this.

1	“For the relevant regulatory requirements for small customers, please refer to the Energy Retail Code.”	Delete this paragraph and replace with:  This guideline applies to bills issued to all customers, including small customers and contains the information for the purpose of clause 64(1) of the Energy Retail Code of Practice.
5	<b>customer</b> means a person who buys electricity from a <b>retailer</b> , where that customer is not a small customer as defined under the Energy Retail Code.	Delete this definition and replace with: <b>customer</b> means a person who buys electricity from a <b>retailer</b> .

<sup>9</sup> This guideline is available in HTML form on our [website](#).

<sup>10</sup> Essential Services Commission, [Guideline 13: Electricity industry – greenhouse gas disclosure on electricity customers' bills for customers other than small customers](#), January 2015.



Page <sup>5</sup>	Reference to Energy Retail Code	Proposed amendment
<b>Registration Guideline for Exempt Persons<sup>11</sup></b>		
Front cover	NA	Add the following note: This guideline was updated on <i>[date]</i> to reflect the Energy Retail Code and Electricity Distribution Code being remade as codes of practice. Only code references were updated. The substantive content of this document was not reviewed at this time.
8	These exempt persons have deemed exemptions and therefore are not required to register with the commission. However, their customers will have specified protections under the Energy Retail Code and Electricity Distribution Code.	Replace 'Energy Retail Code' with 'Energy Retail Code of Practice' and 'Electricity Distribution Code' with 'Electricity Distribution Code of Practice'.
26	<b>Clause 3 of the GEO</b> – Definitions Retail Code means the Energy Retail Code from time to time approved by the Essential Services Commission.	No change. These references are from a copy of the General Exemption Order provided in the guideline for information.
30	<b>Clause 8 of the GEO</b> – Compliance with Retail Code or Distribution Code.	
37	<b>Clause 26 of the GEO</b> – Compliance with Retail Code (transitional provisions).	

<sup>11</sup> Essential Services Commission, [Registration Guideline for Exempt Persons](#), May 2018.

## Guidance notes

The following guidance notes were published on our website throughout 2020 to help industry and consumers understand their obligations. We are proposing to add an update at the start of each guidance note to clearly identify that the guidance notes were originally drafted on the basis of Energy Retail Code obligations, and note where these obligations can now be found.

Guidance note	Update to be added at start of note
Guidance note 1 (2020): De-energisation (or disconnection) of premises (small customers) <sup>12</sup>	This guidance note was published prior to the Energy Retail Code becoming a code of practice under Part 6 of the ESC Act and subsequently being restructured. The obligations that are the subject of this guidance note (previously located in clause 109 of the Energy Retail Code) can now be found in clause 182 of the Energy Retail Code of Practice.
Guidance note 2 (2020): Clear and unambiguous information or advice for residential customers anticipating or facing payment difficulties <sup>13</sup>	This guidance note was published prior to the Energy Retail Code becoming a code of practice under Part 6 of the ESC Act and subsequently being restructured. The obligations that are the subject of this guidance note (previously located in clauses 89 and 111A of the Energy Retail Code) can now be found in clauses 141 and 187 of the Energy Retail Code of Practice, section 40SM of the Electricity Industry Act 2001 and section 48DO of the Gas Industry Act 2000.
Guidance note 3 (2020): Payment arrangements and the written schedule of payments for residential customers anticipating or facing payment difficulties <sup>14</sup>	This guidance note was published prior to the Energy Retail Code becoming a code of practice under Part 6 of the ESC Act and subsequently being restructured. The obligations that are the subject of this guidance note (previously located in clause 81 of the Energy Retail Code) can now be found in clause 130 of the Energy Retail Code of Practice.
Guidance note 4 (2020): Contacting customers eligible for tailored assistance: clause 80(2) <sup>15</sup>	This guidance note was published prior to the Energy Retail Code becoming a code of practice under Part 6 of the ESC Act and subsequently being restructured. The obligations that are the subject of this guidance note (previously located in clause 80

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<sup>12</sup> This guidance note is available in HTML form on our [website](#).

<sup>13</sup> This guidance note is available in HTML form on our [website](#).

<sup>14</sup> This guidance note is available in HTML form on our [website](#).

<sup>15</sup> This guidance note is available in HTML form on our [website](#).

	of the Energy Retail Code) can now be found in clause 129 of the Energy Retail Code of Practice.
Guidance note 5 (2020): Contacting customers receiving tailored assistance to discuss revising their plan, clause 81(6) <sup>16</sup>	This guidance note was published prior to the Energy Retail Code becoming a code of practice under Part 6 of the ESC Act and subsequently being restructured. The obligations that are the subject of this guidance note (previously located in clause 81 of the Energy Retail Code) can now be found in clause 130 of the Energy Retail Code of Practice.
Guidance note 6 (2020): Considering customers' circumstances when discontinuing their tailored assistance, clauses 83(1), 89(1)(aa) and (a) <sup>17</sup>	This guidance note was published prior to the Energy Retail Code becoming a code of practice under Part 6 of the ESC Act and subsequently being restructured. The obligations that are the subject of this guidance note (previously located in clauses 83 and 89 of the Energy Retail Code) can now be found in clauses 132 and 141 of the Energy Retail Code of Practice.
Guidance note 7 (2020): Preventing disconnections of customers receiving assistance under Part 3: clause 116(1)(d) <sup>18</sup>	This guidance note was published prior to the Energy Retail Code becoming a code of practice under Part 6 of the ESC Act and subsequently being restructured. The obligations that are the subject of this guidance note (previously located in clause 116 of the Energy Retail Code) can now be found in section 40SS(c) of the Electricity Industry Act 2001 and section 48DU(c) of the Gas Industry Act 2000.
Guidance note 8 (2020): Additional retail charges in standard retail contracts <sup>19</sup>	This guidance note was published prior to the Energy Retail Code becoming a code of practice under Part 6 of the ESC Act and subsequently being restructured. The obligations that are the subject of this guidance note (previously located in clauses 35A and 35C of the Energy Retail Code) can now be found in clauses 77 and 79 of the Energy Retail Code of Practice.

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<sup>16</sup> This guidance note is available in HTML form on our [website](#).

<sup>17</sup> This guidance note is available in HTML form on our [website](#).

<sup>18</sup> This guidance note is available in HTML form on our [website](#).

<sup>19</sup> This guidance note is available in HTML form on our [website](#).

## Other documents

Page <sup>20</sup>	Reference to Energy Retail Code	Proposed amendment
<b>Better practice in responding to family violence<sup>21</sup></b>		
Front page	NA	Add the following note:  This guideline was updated in <i>[date]</i> to reflect the Energy Retail Code and Electricity Distribution Code being remade as codes of practice. Only code references were updated. The substantive content of this document was not reviewed at this time.
5	The captions to figure 1 include: * [...] The Energy Retail Code family violence amendment is effective from 1 January 2020. **Only in the Energy Retail Code	Add a note to clarify that these obligations are now located in the Energy Retail Code of Practice.
29	Gas and electricity retailers must ensure representatives are trained in how to engage appropriately and effectively with affected customers. See 106F of the Energy Retail Code.	Replace '106F of the Energy Retail Code' with 'clause 149 of the Energy Retail Code of Practice'.
30	Gas and electricity retailers must always have regard to the customer entitlement in the Energy Retail Code of safe supportive and flexible assistance in order to manage personal and financial security. See 106E of the Energy Retail Code.	Replace 'Energy Retail Code' references with 'Energy Retail Code of Practice'. Replace '106E' with 'clause 147'.
32	Gas and electricity retailers may only seek evidence of family violence when undertaking debt management and recovery or as a means to avoid de-energisation (disconnection) of supply. See 106L of the Energy Retail Code.	Replace '106L of the Energy Retail Code' with 'clause 155 of the Energy Retail Code of Practice'.
36	Gas and electricity retailers must have a secure process that avoids affected customers having to repeatedly disclose or refer to their experience of family violence. See 106H of the Energy	Replace '106H of the Energy Retail Code' with 'clause 151 of the Energy Retail Code of

<sup>20</sup> Page numbers are as referenced within each document. These may not align with PDF page numbers.

<sup>21</sup> This better practice guide is available as a [PDF document](#) and in HTML form on our [website](#). Page references here refer to the PDF document. We propose to make the corresponding updates to the web text as well.

Page <sup>20</sup>	Reference to Energy Retail Code	Proposed amendment
	Retail Code.	Practice’.
40	Gas and electricity retailers must not disclose or provide access to confidential information without the customer’s consent. See 106G of the Energy Retail Code.	Replace ‘106G of the Energy Retail Code’ with ‘clause 150 of the Energy Retail Code of Practice’.
43	Gas and electricity retailers must consider the impact of debt recovery and whether other people are responsible for the debt before taking action to recover arrears. Nothing prevents a retailer from waiving, suspending or repurchasing the debt of an affected customer. See 106I of the Energy Retail Code.	Replace ‘106I of the Energy Retail Code’ with ‘clause 152 of the Energy Retail Code of Practice’.
45	Gas and electricity retailers must recognise family violence as a potential cause of payment difficulty. See 106J of the Energy Retail Code.	Replace ‘106J of the Energy Retail Code’ with ‘clause 153 of the Energy Retail Code of Practice’.
49	Gas and electricity retailers must train employees on the nature of family violence, its family violence policy, how to identify, and how to engage with customers who are affected by family violence. See 106F of the Energy Retail Code.	Replace ‘106F of the Energy Retail Code’ with ‘clause 149 of the Energy Retail Code of Practice’.
51	Gas and electricity retailers must ensure training is provided to any employee (or contractor) who engages with customers as well as that employee’s manager. See 106F of the Energy Retail Code.	Replace ‘106F of the Energy Retail Code’ with ‘clause 149 of the Energy Retail Code of Practice’.
62	Gas and electricity retailers must provide an affected customer with information about external family violence support services at a time and in a manner that is safe, respectful and appropriate. See clause 106K of the Energy Retail Code.	Replace ‘106K of the Energy Retail Code’ with ‘clause 154 of the Energy Retail Code of Practice’.
64	Gas and electricity retailers must publish on their website, and keep up to date one or more external family violence support services. See clause 106K of the Energy Retail Code.	Replace ‘106K of the Energy Retail Code’ with ‘clause 154 of the Energy Retail Code of Practice’.
67	Appendix B sets out the schedule of amendments from when family violence provisions were added to the Energy Retail Code.	No change. This appendix is for reference from the time the code was first updated.