

Energy Retail Code obligations for exempt sellers under the General Exemption Order 2017

Draft decision

5 July 2018

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Summary

The commission's draft decision sets out the provisions under the Energy Retail Code that are proposed to apply to exempt sellers. This follows the Department of Environment, Land, Water and Planning's final position paper to their Review of the Victorian Electricity Licence Exemptions Framework and subsequent updated General Exemption Order gazetted on 15 November 2017. Along with setting out the amended licence exemption categories, the order required the commission to specify the provisions in the retail code that apply to an exempt person under each category or class.¹

Both the department's final position paper and the updated order considered that customers of exempt sellers should receive a level of protection comparable to customers of licensed retailers while continuing to have regard for the nature of exempt selling activities. In general this draft decision aligns with the obligations in place across other Australian jurisdictions as set out by the Australian Energy Regulator (AER) under its Retail Exempt Selling Guideline.² The provisions under the amended retail code broadly relate to the following areas:

- explicit informed consent
- billing, including contents and information on bills, basis for bills, frequency of bills, payment methods, undercharging and overcharging, additional retail charges and merchant fees
- payment difficulties assistance and payment plan options
- restrictions on debt recovery for residential customers experiencing payment difficulties
- a prohibition on security deposits for residential customers
- general information about interpreter services
- provision of information to customers
- reminder notice and disconnection warning notice requirements
- disconnection and reconnection requirements
- life support equipment requirements.

Not all provisions apply to every category of exempt seller. Appendix B provides details of the specific clauses and the particular categories of exempt sellers to which they apply.

There are some areas where the provisions specified in the draft decision do not align with the national framework. This largely reflects elements of the retail code that apply only in Victoria. One

¹ Clause 8 of the General Exemption Order 2017, no. S 390, p. 5.

² Australian Energy Regulator (Retail) Exempt Selling Guideline – version 5 – March 2018, available at: <https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/retail-exempt-selling-guideline-march-2018>

particular example is found in the new payment difficulties framework that will apply from 1 January 2019. The commission believes these obligations are in the long term interests of consumers and important protections that should be available to residential customers of exempt sellers. Appendix C provides more details on the payment difficulties framework and how these provisions are proposed to apply to exempt sellers.

The commission invites written submissions regarding the draft decision until 10 August 2018. Stakeholder feedback will be used to inform our final decision expected in September 2018. The commission is proposing for the code changes specified in the final decision to apply from 1 January 2019.

1. Introduction

The commission is responsible for licensing companies in Victoria who sell, supply, distribute, transmit or generate electricity. We also set licence conditions for electricity companies which includes the requirement to comply with our codes and guidelines.

In Victoria, there are some electricity sellers who do not require a licence, known as exempt sellers. Retail (selling) exemptions are for exempt persons who purchase electricity from a licensed retailer and then on-sell it to customers who are individually metered within the limits of a site that they own, operate or occupy. Exempt sellers may include caravan parks, retirement villages, shopping centres, apartment buildings and others who sell electricity to residential and small business customers through an embedded network.

1.1. Background

In September 2017, the department delivered their final position paper that set out policy positions for improving the efficiency and effectiveness of the licence exemptions framework and formed the basis for updating the General Exemption Order.³

In November 2017, the Victorian Government gazetted the updated order that set out its regulations to amend the categories of licence exemptions. The categories of exemption now include deemed and registration exemptions for retail (selling) and network (supplying) activities. As part of the changes, the government increased the number of exempt activities covered by the order. This concluded a two year consultation process.

The Victorian Government also tasked the commission with:

- creating a register of exempt sellers and suppliers
- approving a dispute resolution scheme for exempt sellers and exempt suppliers
- reviewing and specifying obligations that will apply to exempt sellers and exempt suppliers
- formulating the maximum price that electricity may be sold at under an exemption.⁴

³ Department of Environment, Land, Water and Planning (2017), *Victorian Government's Review of the Victorian Electricity Licence Exemptions Framework, Final Position Paper*

⁴ The order sets out a transitional pricing rule that specifies that until the commission formulates a maximum price, prices must not exceed the standing offer tariff for the local retailer in the relevant distribution area in which the customer is being served.

On 17 May 2018, we launched the register of exempt persons, supported by a registration guideline. The guideline specifies the information we collect and publish on the public register. It also outlines the information we collect but do not publish on the public register.

On 19 March 2018, we approved the Energy and Water Ombudsman Victoria (EWOV) to be the dispute resolution body for exempt sellers and suppliers. We made this decision having regard to the matters the commission must consider in approving a customer dispute resolution body as required by legislation.

The commission has convened a number of stakeholder roundtables, which helped in establishing the register of exempt persons as well as approving EWOV to be the dispute resolution body for exempt sellers and suppliers. These roundtables also provided the commission with preliminary stakeholder views on our work to specify the retail code provisions that will apply to exempt sellers. We have reviewed our codes and are proposing which obligations should be assigned to exempt sellers.

1.2. Purpose of the draft decision paper

The purpose of this paper is to propose which obligations in the retail code exempt sellers must comply with.

1.3. Process for reaching a final decision

We are seeking feedback from interested stakeholders on the proposed provisions set out in this draft decision and the draft amended retail code. Submissions to the commission are due on 10 August 2018. We will consider stakeholder feedback and expect to publish the final decision in September 2018. The commission is proposing for the code changes specified in the final decision to apply from 1 January 2019.

1.4. Structure of this document

Our draft decision follows the following structure:

- Section 2 explains the background to our approach for developing the draft decision.
- Section 3 provides a high level summary of the obligations that are proposed to apply to exempt sellers.
- Section 4 sets out the next steps, including the process for making a submission in response to our draft decision.
- Appendix A defines the categories of exempt seller as prescribed in the order.
- Appendix B contains a table of all specific clauses of the retail code we propose to include as obligations including the particular categories of exempt sellers to which the clause applies to.

- Appendix C details our proposed approach to setting the obligations from the new payment difficulties framework that will apply to exempt sellers who serve residential customers.
- Appendix D highlights the obligations from the order that apply to exempt sellers.
- Appendix E provides a quick reference guide to determine how retail code provisions apply across categories of exempt sellers.

2. Approach

Through the order, the Victorian Government has asked us to assign protections to customers who receive their electricity from exempt sellers. In particular, we have been asked us to specify which provisions in the retail code should apply to exempt sellers. This is supported by the final position paper, which stated that where necessary we should consider any other codes and guidelines that should apply to exempt sellers. It also expected that consumer protections should be closely aligned with the protections under the AER's guideline.

In undertaking this task, we have regard to:

- the order and final position paper
- our legislative framework
- the national framework.

We also have regard to the view of our community and the expectations of the Victorian Government.

2.1. Requirements under the General Exemption Order

The order specifies that the commission must determine which clauses of the retail code will apply to each category of exempt seller.

Under the previous order, exempt sellers were required to comply with 'all applicable provisions' of the retail code as if they were a licensed retailer.

In making the new order, the government determined that:

- the new exemptions framework should provide customers of exempt sellers with a comparable level of protections and services as those afforded to customers of licensed retailers
- the diverse range of exemption categories means that a 'full suite' of protections may not be warranted
- the new obligations must establish a balance between ensuring appropriate levels of consumer protections and not imposing excessive or inappropriate regulatory burden⁵
- the new obligations should align closely with the protections linked to the national framework for each category of exemption.⁶

⁵ Department of Environment, Land, Water and Planning (2017) , *Victorian Government's Review of the Victorian Electricity Licence Exemptions Framework, Final Position Paper*, p. 9.

In addition, the order also specifies a range of obligations exempt sellers must meet with respect to explicit informed consent and provision of information. Appendix D provides a summary of these obligations.

2.2. Final position paper

In its final position paper, the department considered “that customers of exempt sellers should be given a comparable level of protection as customers of licensed retailers, having regard to the nature of the exempt selling activity, and that these protections should be clearly specified.”⁷ To achieve this, it stated that the commission would be referred the task of specifying the particular provisions in the retail code that would apply to particular categories of exempt sellers.

The commission was expected to consult with government and stakeholders in undertaking this role.

2.3. Legislative framework

Under the *Essential Services Commission Act 2001 (Vic)*, the objective of the commission is to promote the long-term interests of Victorian consumers having regard to the price, quality and reliability of essential services.⁸ In seeking to achieve that objective, in our approach to this draft decision, we have had particular regard to the following matters:

- consistency in regulation between states and on a national basis
- the benefits and costs of regulation (including externalities and the gains from competition and efficiency) for:
 - consumers and users of products or services (including low income and vulnerable consumers)
 - regulated entities
- the financial viability of the industry.⁹

⁶ *Ibid*, p. 11.

⁷ *Ibid*.

⁸ *Essential Services Commission Act 2001 (Vic)*, s8.

⁹ *Essential Services Commission Act 2001 (Vic)*, s8A.

2.4. Aligning the obligations with the national framework

The AER currently administers the regulatory framework for exempt sellers operating in jurisdictions outside of Victoria through its retail exempt selling guideline.¹⁰

To promote consistency in state and national regulation, regulatory efficiencies and the long-term interests of Victorian consumers, we propose to harmonise our exempt selling regulatory framework with the AER's national framework as far as possible. This includes protections relating to billing, payments, disconnections, and life support equipment. Appendix B provides further detail setting out how our proposed approach aligns with the national framework.

However, in some cases the Victorian retail code provides additional protections to support consumers and users of electricity (including low income and vulnerable consumers) relative to the national arrangements. To promote the long-term interests of customers of exempt sellers and to ensure these customers have protections that are comparable to those for customers of licensed retailers the commission is proposing to apply some additional protections to exempt sellers. One example of this is the new payment difficulties framework that will apply from 1 January 2019. Appendix C outlines our proposed approach to applying the new payment difficulties framework to exempt sellers.

The key protections we are proposing are summarised in section 3.

2.5. Initial stakeholder views

We have been actively engaging with stakeholders, including representatives from caravan parks, retirement villages, shopping centres, owners' corporations and customer groups to understand which obligations should apply to exempt persons. Since February, we have held roundtables with these representatives to discuss which obligations should apply from the retail code. Stakeholders have generally encouraged us to align the retail code obligations for exempt sellers with the national framework.

¹⁰ Australian Energy Regulator (Retail) Exempt Selling Guideline – version 5 – March 2018, available at: <https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/retail-exempt-selling-guideline-march-2018>

3. Key obligations

Our draft decision is to amend the retail code to specify which provisions are applicable to exempt sellers. The retail code only applies to small customers (residential and small business customers) who use less than 40MWh per annum. A version of the proposed amended code is available at our website for review.

In Victoria, there are some electricity sellers who do not need a retail licence, known as exempt sellers. Exempt sellers purchase electricity from a licensed retailer and then on-sell it to customers who are individually metered within the limits of a site that they own, operate or occupy. In general, the sale of electricity is not the core business of the exempt seller.

The order defines two broad categories of exempt sellers, deemed and registrable. Table 1 sets out the categories of deemed exemptions as defined in the order. These categories align with AER's definitions. These exempt sellers do not need to register with the commission, but are still required to meet the relevant obligations.

Table 1: Retail activity deemed exemptions

Exemption code	Retail activity deemed exemptions
VD1	Persons selling metered electricity to fewer than 10 small commercial/retail customers within the limits of a site that they own, occupy or operate.
VD2	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).
VD3	Persons selling metered electricity to occupants of holiday accommodation on a short-term basis (excluding caravan parks, holiday parks, residential land lease parks and manufactured home estates).
VD4	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.

VD5	Persons selling electricity to a related company.
VD6	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-F or other communications technology.
VD7	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.

If an entity is eligible for a registrable exemption they are required to register with the commission and have their details published on a public register. Table 2 sets out the categories of registrable exemptions as defined in the order. These categories align with AER's definitions.

Table 2: Retail activity registration exemptions

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

3.1. Overview of proposed retail code provisions

At a high-level, we propose to include the following classifications of obligations from the retail code for exempt sellers:

- explicit informed consent
- billing, including contents and information on bills, basis for bills, frequency of bills, payment methods, undercharging and overcharging, additional retail charges and merchant fees
- payment difficulties assistance and payment plan options
- restrictions on debt recovery for residential customers experiencing payment difficulties
- a prohibition on security deposits for residential customers
- general information about interpreter services
- provision of information to customers
- reminder notice and disconnection warning notice requirements
- disconnection and reconnection requirements
- life support equipment requirements.

The following sections explain how we have reached our draft decision for the application of particular clauses of the retail code to exempt sellers. For more detail on the particular clause of the retail code or the categories of exempt sellers to which it applies, readers should refer to the relevant appendix of this draft decision.

3.1.1. Explicit informed consent

The order requires exempt sellers to provide information to customers to enable explicit informed consent before the sale of electricity. The order defines explicit informed consent as consent given by a customer to an exempt seller where:

- the exempt seller has clearly, fully and adequately disclosed, in plain English, all matters relevant to the customer's consent
- the customer gives consent to the arrangements:
 - in writing, signed by the customer, or
 - verbally, if the verbal consent is evidenced in a way that can be verified or recorded, or
 - by electronic communication generated by the customer.¹¹

These obligations in the order are strengthened and supported by the retail code, which also sets out the need for a record of explicit informed consent. We propose to apply the relevant explicit

¹¹ Clause 9 of the General Exemption Order 2017. No. S390.

informed consent obligations in the retail code to most exempt seller categories that serve small customers.

These key protections ensure that customers receive sufficient information about their electricity arrangement prior to making a decision about their electricity supply and giving their consent. We believe these provisions are critical for giving customers of exempt sellers the opportunity to make a choice about their electricity seller.

While the national framework does specify the information that an exempt seller needs to provide to a customer prior to an electricity arrangement comes into effect, there is no requirement for explicit informed consent.

Draft decision

We propose to apply the relevant explicit informed consent obligations in clauses 3C-3D of the retail code to the following exemption categories: VR1-4, VD1-2 and VD7.

3.1.2. Support for customers experiencing payment difficulties

From 1 January 2019, the retail code will include a new payment difficulties framework that provides minimum entitlements to assistance for residential customers anticipating or facing payment difficulties. Residential customers are a subset of small customers, which do not include small business customers.

There are two forms of assistance available:

- **Standard Assistance** is designed to assist customers who are anticipating payment difficulties and are not yet in arrears for non-payment of a bill.
- **Tailored Assistance** is designed to assist customers who are in payment difficulties and have arrears of \$55 or more due to non-payment of a bill.

Customers are entitled to receive the minimum standard of assistance from their retailer. Retailers cannot choose whether or not they provide assistance to customers, but they have some flexibility in how they provide that assistance. While the new framework contains similar protections as the existing obligations (e.g. payment plans, provision of information to customers about assistance available and flexible payment options), it aims to have assistance tailored to customer needs. The aim of the new framework is to reduce the frequency of payment difficulty, provide customers with timely and tailored information and assistance, and empower customers to propose how they might

repay arrears and manage their finances.¹² The new framework continues to state that disconnection of an essential service, such as electricity, should only occur as a last resort.

We propose to apply certain provisions of the payment difficulties framework to exempt sellers serving residential customers from 1 January 2019. We are not proposing to apply all provisions that are to be applied to licensed retailers because some obligations could exceed the capacity of some exempt sellers, particularly those serving a small number of customers. Given the large number of relevant clauses and categories, Appendix C provides further detail of how we propose to apply each relevant clause to the various categories of exempt seller.

In taking this approach, the commission has sought to balance protections particularly for vulnerable customers while not placing an excessive burden on exempt sellers. Although these obligations represent a level of protection above what is set out in the national framework, the commission believes they are important protections for customers to maintain access to an essential service in a way they can afford. Moreover, the Australian Energy Market Commission is currently considering a rule change proposal to strengthen protections for customers facing hardship that may result in more alignment between the new Victorian payment difficulties framework and the national framework.

Draft decision

We propose to apply certain provisions of the new payment difficulties framework to exempt sellers of residential customers. Refer to Appendix C for detail of which clauses are proposed to apply to exempt seller categories.

3.1.3. Billing obligations

The retail code contains a range of billing obligations that provide transparency and valuable information for Victorian electricity customers. These include obligations relating to the frequency of bills, dispute resolution, overcharging or undercharging and payment options.

It is important for customers to be issued bills on a regular basis and that bills include relevant information to help a customer understand the charges and their usage. We also consider it important for customers to have a specified timeframe to pay their bills. We propose that a minimum of 13 business days for payment, from the date the bill was issued, provides customers with an appropriate period of time to pay the bill before a reminder notice can be issued.

¹² Essential Services Commission, Payment difficulty framework: Final decision, October 2017, pp. x-xiii.

Additionally, we believe that procedures for handling billing complaints in a standard manner to be important for customers to assist with the timely resolution of disputes.

Customers should receive timely refunds of any overcharged amounts and should have protections if an exempt seller's error results in undercharging for an extended period. Without regulation, customers may be subject to a lengthy period of cost recovery despite not being the cause of the undercharging error. This has the potential to create financial harm and payment difficulties for customers through high bills.

Customers should also have options about how they pay their bill, including at least one method that does not require access to the internet or direct debit. This is particularly relevant for vulnerable customers. Accordingly, we propose to include a range of billing obligations.

These provisions provide important information to customers to understand and manage their electricity usage, as well as providing them with reasonable timeframes in which to pay bills. It also provides customers with certainty about how they can pay their bills, to query how their bill has been developed and how they will be reimbursed when overcharged. We believe these provisions are necessary protections for customers to manage their finances.

We have aligned the obligations as closely as possible with the national framework. Conditions 3, 4 and 5 of the AER's exempt selling guideline contain similar obligations to the provisions we are proposing to apply to exempt sellers.

Draft decision

We propose to include a range of billing obligations including:

- contents and information on bills
- basis for bills (including estimations)
- frequency of bills
- historical billing information
- billing dispute procedures
- undercharging and overcharging
- payment methods for customers of exempt sellers
- receipts for cash payments
- additional retail charges and merchant fees.

We propose to apply these obligations to the following exemption categories: VR1-4, VD2 and VD7.

3.1.4. Protections for customers who require life support equipment

The life support provisions of the retail code require a licensed retailer to notify the licensed distributor about a customer who has life support equipment. These clauses set out the circumstances where a licensed retailer must register a premise as having life support equipment, provide the relevant distributor with relevant information and not arrange for de-energisation of the premise.

We propose to apply an obligation for an exempt seller to notify their licensed retailer (who in turn notifies the licensed distributor) about a customer in the embedded network who requires life support equipment. This will ensure that the licensed distributor works with the customer regarding planned outages in the wider distribution network.

We also propose to require the exempt seller to notify the exempt supplier (if they are separate entities) to ensure that the exempt supplier works with the customer regarding a planned outage within the embedded network.

We consider the life support provisions to be critical protections for customers who reside at a property and require life support equipment. These proposed obligations will help protect customers against losing supply during planned outage events and the risks this could pose to their health and wellbeing.

Our proposed approach aligns with condition 20 of the AER's exempt selling guideline.

Draft decision

We propose to apply clauses 123-125 to exempt sellers who serve residential customers in the following exemption categories: VR2-4 and VD2.

3.1.5. Disconnection obligations

The disconnection clauses of the retail code specify when a licensed retailer or exempt seller can and cannot disconnect a customer's supply in a variety of circumstances. Clauses 111-116 and 118 include provisions for:

- protections for customers from disconnection for not paying a bill
- the ability of exempt sellers to disconnect regarding security deposits or refusal to provide acceptable identification

- an exempt seller's right to disconnect when a customer denies access to the meter
- an exempt seller's right to disconnect if a customer is illegally using energy
- protections for customers regarding when a retailer must not arrange disconnection
- a customer's right to request disconnection of their supply.

We propose to apply these clauses to most exempt sellers for small customers. However, part of clause 112 does not apply to exempt sellers who serve residential customers as we are proposing to prohibit security deposits for residential customers. Additionally, clause 117 is not relevant to exempt sellers as it relates to dual fuel contracts (i.e. electricity and gas combined in one contract).

We consider these to be important protections for customers because they clarify the circumstances where they may be disconnected and provide strong protections that guard against disconnection from an essential service.

Equally the provisions provide exempt sellers with the ability to disconnect a customer's electricity supply in certain circumstances.

Without clear rules and requirements regarding disconnections, customers and exempt sellers could be negatively impacted. These obligations and customer protections clearly outline when and in what circumstances supply of an essential service can be disconnected.

These clauses partly align with condition 10 of the Australian Energy Regulator's exempt selling guideline.

Draft decision

We propose to apply clauses 111, 112(2), 113-116 and 118 to the following exemption categories: VR2-4, VD2.

We propose to apply clauses 111-116 and 118 to the following exemption categories: VR1, VD1 and VD7.

3.2. Application of provisions to different exempt sellers

Exempt sellers are categorised depending on who they sell electricity to, the context in which that occurs and the scale of their operations. Where a retail code provision is proposed to apply to exempt sellers, the commission has specified which categories of exempt seller are relevant in Appendices B and C, with a quick reference guide in Appendix E. The categories of exempt sellers are defined in Appendix A as specified in the order.

It is important to note that these obligations will not apply to every category of exempt seller.

Additionally, the retail code obligations do not apply to exempt sellers who do not bill customers for electricity as a separate, discrete charge and therefore who do not need a retail exemption. Nor do they apply to the large customer retail exemption category.

3.3. When will the proposed code amendments take effect?

Our draft decision is for the proposed amendments to the retail code and the new payment difficulties framework to take effect for exempt sellers on 1 January 2019. This approach provides EWOV with a guide in relation to the relevant provisions of the retail code for dispute resolution as soon as possible and ensures customers of exempt sellers receive access to the new payment difficulties framework at the same time as other customers. It also provides exempt sellers with a period of transition to develop and implement new practices to meet these obligations.

4. Next steps

4.1. Consultation and stakeholder submissions

We are now seeking feedback from stakeholders on our draft decision. We invite submissions from interested parties, including exempt persons, electricity licence holders and their customers.

Please note that the scope of the review relates to which provisions of the retail code should apply to exempt sellers. We are not consulting on any other policy matters.

Submissions should be submitted preferably in electronic format **by 5.00 pm on Friday 10 August 2018**. Submissions can be emailed to exemptionregister@esc.vic.gov.au. You can also send submissions by mail, marked Submissions to Energy Division, to:

Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

To promote an open and transparent review process, we will make all submissions publicly available on our website. If there is information that you do not wish to be disclosed publicly on the basis that it is confidential or commercially sensitive, this information should be clearly specified in the submission.

4.2. Process for reaching our final decision

Following consultation with stakeholders, we expect to release a final decision and an amended retail code in September 2018, which will also include changes to implement the new payment difficulties framework from 1 January 2019. We acknowledge that it may take time for some exempt sellers to meet their new obligations. Accordingly, all changes will apply to exempt sellers from 1 January 2019.

4.3. Related work

Over the next 12 months the commission will progress work in the following related areas:

- Assisting exempt sellers and customers to understand how these proposed obligations apply to them.
- Our review of the competitiveness and efficiency of the Victorian retail energy market (to be delivered by the end of 2019) is expected to provide the commission with more insight into the prices available to customers. This review will help to inform our formulation of the maximum price exempt sellers can charge.
- Reviewing the obligations in the Electricity Distribution Code for exempt suppliers.

- Considering how the obligations for exempt sellers relate to the commission's review of the retail energy market, which requires the commission to review its regulatory codes to ensure a focus on customer outcomes and to account for new business models.¹³

¹³ <https://www.esc.vic.gov.au/project/energy/57108-retail-market-reform-program/>

Appendix A – Retail exemption categories

Table 1: Retail activity deemed exemptions

Exemption code	Retail activity deemed exemptions
VD1	Persons selling metered electricity to fewer than 10 small commercial/retail customers within the limits of a site that they own, occupy or operate.
VD2	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).
VD3	Persons selling metered electricity to occupants of holiday accommodation on a short-term basis (excluding caravan parks, holiday parks, residential land lease parks and manufactured home estates).
VD4	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.
VD5	Persons selling electricity to a related company.
VD6	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-F or other communications technology.
VD7	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.

Table 2: Retail activity registration exemptions

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

Appendix B – Table of proposed retail code obligations for exempt sellers

This section of the draft decision outlines the clauses of the retail code that we propose to apply to each category of deemed and registration retail exemption. The table follows the sequential order of the retail code. The clauses in this appendix refer to the proposed version 12 of the retail code.

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
Clause 3	We propose to update the definitions to include new terms that relate to exempt sellers and amend terms to make them applicable to exempt sellers.	VR1-5 and VD1-7	N/A
Clause 3B	We propose to include new and amended subclauses in clause 3B of the retail code. This will give effect to the requirements of the order and provide an easy reference point in schedule 8 for readers of the retail code to readily identify which obligations apply and which do not.	VR1-5 and VD1-7	N/A
Clauses 3C-3D	We propose to apply clauses 3C and 3D to certain exemption categories. We consider these explicit informed consent obligations to be appropriate protections for customers. These directly relate to obligations in the order and are needed for the effective resolution of disputes.	VR1-4, VD1-2 and VD7	Partial
Clause 3F	We propose to apply clause 3F to certain exemption categories. We consider that clause	VR1-4, VD1-3, VD6,	Partial

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	<p>3F underpins the application and effectiveness of many other clauses in the retail code, such as reminder notices, disconnection warning notices, and the obligation to provide information in plain English to customers as required by clause 9 of the order.</p> <p>Clause 3F of the retail code clarifies how notices and other documents can be provided to customers under the code. Condition 2 of the Australian Energy Regulator's exempt selling guideline contains similar obligations regarding the provision of information.</p>	and VD7	
Clauses 12-15	We propose to exclude these clauses relating to terms and conditions of contracts for exempt sellers as they are only relevant to licensed retailers.	N/A	N/A
Clauses 15A-15F	We propose to exclude these clauses relating to price and product disclosure for exempt sellers because a condition of the order is that customers are provided with information about tariffs, fees and charges before they enter an agreement for the sale of electricity, on an annual basis, and at any other time at the request of the customer. We note that we are proposing to apply clause 46(3)-(4) to relevant exempt sellers which requires them to notify customers of a price variation as soon as practicable and no later than the next bill.	N/A	N/A
Clauses 16-	We propose to exclude clauses 16, 18 and 19 relating to pre-contractual procedures from	VR1-4, VD1-3, VD6	Yes

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
19	<p>applying to exempt sellers, as they are designed for licensed retailers.</p> <p>However, we propose to insert a new clause 17 that applies to exempt sellers and requires them to provide electricity supply to a customer.¹⁴ Clause 17 is largely consistent with Condition 1 of the Australian Energy Regulator’s exempt selling guideline and clause 121 of the retail code.</p>	and VD7	
Clause 20	We propose to apply the obligation in clauses 20(1)(a) and 20(2) relating to basis for bills to certain exemption categories. We consider the requirements in these clauses to be key expectations of customers. The obligation also aligns with the conditions 3 and 4 of the Australian Energy Regulator’s exempt selling guideline.	VR1-4, VD1-3 and VD7. VD6 – only subclause (3)	Yes
Clause 20A	We propose to exclude this clause as bulk hot water is not applicable to exempt sellers under the order.	N/A	N/A
Clause 21	We propose to apply conditions on how estimations are calculated and when they can be used as the basis of a customer’s bill. This obligation largely aligns with Condition 4 in the	VR1-4, VD1-3 and VD7	Yes

¹⁴ Clause 17 is currently not used in the Energy Retail Code (version 11b)

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	Australian Energy Regulator's exempt selling guideline.		
Clause 22	We propose to apply clause 22 to certain exempt sellers. We consider it appropriate that customers are billed proportionately and fairly when there is a tariff increase mid-way through a billing cycle.	VR1-4, VD1-2 and VD7	No
Clause 23	We propose to apply clause 23 for exempt sellers who choose to offer bill smoothing.	VR1-2, VD1-2 and VD7	No
Clause 24	<p>We propose to apply clause 24(1)(a) to certain exempt sellers. This will ensure customers receive bills at least every three months. For simplicity, we propose to not apply clause 24(2) to any exempt sellers.</p> <p>We consider it important for customers to receive regular electricity bills. We understand that the frequency of these bills may be weekly or fortnightly for some exempt sellers, while other exempt sellers may issue bills monthly or quarterly.</p>	VR1-4, VD1-2 and VD7	Yes
Clause 25(1)	We propose to apply particular subclauses to certain exempt sellers. We have aligned the contents of bills obligations in this clause as closely as possible with conditions 3 and 15 of the Australian Energy Regulator's exempt selling guideline. We consider some of	Partially applies to VR1-4, VD1-3 and VD7	Yes

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	<p>the obligations in the code to be too onerous for many exempt sellers and accordingly we have not included them in the obligations. We propose to exclude these subclauses from the following exempt seller categories:</p> <p>VD1 – N/A: k)-l), m), o)-p), s), v)-w)</p> <p>VD2 – N/A: k)-m), o), q), v)-w)</p> <p>VD3 – N/A: a)-c), i)-q), s), v)-y)</p> <p>VD4-6 – N/A</p> <p>VD7 – N/A: k)-l), m), nn)-p), s), v)-w)</p> <p>VR1 – N/A: k)-l), m), o)-p), s), v)-w)</p> <p>VR2 – N/A: k)-m), nn)-q), v)-w)</p> <p>VR3 – N/A: k)-m), nn)-q), v)-w)</p> <p>VR4 – N/A: k)-m), nn)-q), v)-w)</p> <p>VR5 – N/A</p>		
Clause 25(2)	We propose to apply clause 25(2) for certain exempt sellers. Clause 25(2) requires amounts billed for goods and services (other than the sale and supply of energy) to be in a separate bill or as a separate item in an energy bill.	VR1-4, VD1-2 and VD7	No

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
Clause 25A	We propose to exclude the greenhouse gas obligations as we consider that clause 25A is too onerous for many exempt sellers.	N/A	Yes
Clause 26	<p>We propose to apply this obligation as it directly links to the requirements for disconnecting a customer's electricity supply for non-payment of a bill. It also provides customers with a reasonable opportunity to pay the bill after it is issued and sent to them. Additionally, this provides exempt sellers with a reference point in relation to compliant disconnections for non-payment of a bill.</p> <p>Clause 26 also aligns with condition 5 in the Australian Energy Regulator's retail exemption guideline and represents what is required in a standard retail contract. We consider the pay-by date to be crucial information for both customers and exempt sellers. We believe that a minimum of 13 business days for payment, from the date the bill was issued, provides customers with an appropriate period of time to pay the bill before a reminder notice can be issued.</p>	VR1-4, VD1-2 and VD7	Yes
Clause 27	We propose to apply clause 27 to certain exempt sellers. We consider that clause 27 is an important inclusion as electricity is an essential service and therefore any payments made towards a bill that include other goods or services should first be applied to the electricity charges.	VR1-4 and VD1-2 and VD7	No

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
Clause 27A	We propose to apply clause 27A relating to In Home Displays only to exempt sellers that sell to 10 or more residential customers. All other categories of exempt sellers do not need to comply with this obligation.	VR2	No
Clause 28	We propose to apply clause 28 to certain exempt sellers to ensure customers have access to their historical billing and metering data information. Access to historical billing information will also be important for the resolution of customer complaints and to demonstrate compliance with the disconnection obligations in the retail code.	VR1-4, VD1-2 and VD7	No
Clause 29	<p>We propose to apply clause 29 to certain exempt sellers. This clause is vitally important to underpin the efficient and effective resolution of disputes, where possible. We also believe that these will help mitigate complaints being pre-maturely escalated to the Energy and Water Ombudsman (Victoria).</p> <p>The exempt seller is also required to inform the customer that they may lodge a dispute with the ombudsman if they are not satisfied with the outcome of the review. This requirement is consistent with condition 16 of the Australian Energy Regulator's exempt selling guideline.</p>	VR1-4, VD1-2 and VD7	Yes
Clause 30	We propose to apply clause 30 to certain exempt sellers. We consider rules regarding	VR1-4, VD1-2 and	Yes

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	undercharging to be important customer protections. We also consider that exempt sellers should have restrictions on recovering undercharged amounts from a customer. Without regulation, customers may be subject to a lengthy period of cost recovery despite not being the cause of the undercharging error. This has the potential to create financial harm and payment difficulties for customers through high bills. Clause 30 largely aligns with Condition 8 in the Australian Energy Regulator’s retail exemption guideline.	VD7	
Clause 31	We propose to apply clause 31 to certain exempt sellers. We consider rules regarding overcharging to be important customers protections. Without these protections, customers may not receive a refund in a timely manner. Clause 31 largely aligns with Condition 8 in the Australian Energy Regulator’s retail exemption guideline.	VR1-4, VD1-2 and VD7	Yes
Clause 32	We propose to exclude this clause for exempt sellers and amend it so it only applies to licensed retailers. However, we propose to insert a new clause 32A that will apply to exempt sellers.	N/A	N/A
Clause 32A	We propose to insert a new clause to provide particular obligations for exempt sellers to offer different payment methods to customers that support their business models and practices. This proposed obligation aligns with condition 3 of the Australian Energy Regulator’s retail guideline.	VR1-4, VD1-3 and VD7	Yes

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
Clause 32B	We consider it important that an additional clause is inserted to support the new types of exempt sellers that may be accepting payments from customers in ways not envisaged by the current code, particularly cash payments that are made directly to the exempt seller. This obligation mostly aligns with the Australian Energy Regulator's Condition 6, however, we have added 'internet' to subclause (1)(b).	VR1-4, VD1-3 and VD7	Yes
Clause 33	Repealed in version 12 of the retail code.	N/A	N/A
Clause 34	<p>We propose to prohibit shortened collection cycles for residential customers, as we do not consider shortened collection cycles appropriate for residential customers of exempt sellers.</p> <p>Additionally, shortened collection cycles for residential customers will become largely redundant once version 12 of the Energy Retail Code commences on 1 January 2019. However, we do propose to apply this provision for other small customers who are not residential customers.</p>	VR1, VD1 and VD7	No
Clause 35	We propose to apply clause 35 to certain exempt sellers. We consider basing a final bill on an actual meter read and providing a final bill to a customer to be an essential obligation. This clause links to clause 118 (customer request for de-energisation). This	VR1-4, VD1-2 and VD7	Partial

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	clause partly aligns with Condition 4(2) of the Australian Energy Regulator's retail exemption guideline.		
Clause 35A	We propose to apply clause 35A to allow certain exempt sellers to impose additional retail charges that fairly and reasonably reflect the costs incurred by the seller. This clause is similar to condition 7 of the Australian Energy Regulator's retail guideline.	VR1-4, VD1-2 and VD7	Partial
Clause 35B	We propose to apply clause 35B to certain exempt sellers. We consider it reasonable for exempt sellers to be able to recover a merchant service fee from the residential customer.	VR1-4, VD1-2 and VD7	No
Clause 35C	We propose to apply clause 35B to certain exempt sellers. We consider it reasonable for exempt sellers to be able to recover a dishonoured payment fee from a customer if the payment was dishonoured due to a fault of the customer.	VR1-4, VD1-2 and VD7	No
Clause 36	We propose to exclude clause 36 from applying to exempt sellers as it is specifically designed for customers on standard retail contracts and therefore is not relevant.	N/A	N/A
Clause 37	We propose to exclude clause 37 from applying to exempt sellers. Clause 37 is designed	N/A	N/A

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	for licensed retailers that offer a variety of tariff options. Therefore, it is not relevant for exempt sellers.		
Clause 38	We propose to exclude clause 38 from applying to exempt sellers as we do not believe that it is relevant for customers in embedded networks because we do not envisage an apartment or caravan site becoming a small business.	N/A	N/A
Clauses 39-45	We do not consider it appropriate for exempt sellers to be able to request a security deposit from residential customers as it can be difficult for a residential customer, particularly tenants, to exercise their right to choose a licensed retailer. Exempt sellers will still be able to pursue debt collection and disconnection for non-payment of a bill, in line with the requirements of the retail code. However, we do consider clauses 39-45 appropriate in relation to small business customers and therefore we propose to only apply those clauses to exempt sellers that serve business customers.	VR1, VD1 and VD7	No
Clause 45A	We propose to amend clause 45A to include references to 'exempt person arrangements'.	N/A	N/A
Clause 46	We propose to apply clause 46(1)-(4) to certain exempt sellers. Clause 9 of the order requires exempt sellers to provide customers with information about tariffs and charges	VR1-4, VD1-2 and VD7	Yes

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	<p>prior to obtaining their explicit informed consent to commence an arrangement for sale of electricity. Our proposed obligations reinforce the requirements in the order. Additionally, we consider it appropriate for exempt sellers to notify customers of changes to tariffs and charges as soon as practicable. This obligation aligns with condition 7 of the Australian Energy Regulator’s exempt selling guideline. Additionally, this clause supports the obligation in the order for exempt sellers to provide information to customers about tariffs and charges (and other matters) on an annual basis, and at any other time at the request of the customer.</p>		
Clause 46A	<p>We propose to exclude as this clause is designed for licensed retailers and mainly relates to gas and dual fuel contracts.</p>	N/A	N/A
Clause 47	<p>We propose to apply clauses 47(1)-(5) and 47(7) to certain exempt sellers. We consider clear information about a customer’s right to withdraw from electricity arrangements within the cooling off period to be an important customer protection. This largely aligns with condition 22 of the Australian Energy Regulator’s retail exemption selling guideline, which includes the various scenarios where an energy supply agreement can be terminated.</p>	VR1-4, VD1-2 and VD7	Yes
Clause 47A	<p>We propose to apply clause 47A(1)-(2) and 47A (3)(a)-(b) to certain exempt sellers. We</p>	VR1-4 and VD1-2	No

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	consider the requirement for sellers to notify customers of changes to benefits to be an important customer protection.	and VD7	
Clause 48	We propose to apply clause 48(1)-(5) to certain exempt sellers. We consider requiring sellers to notify customers about the end of their sale arrangement to be an important consumer protection as it allows customers to take action and arrange a new agreement in a timely manner.	VR1-4, VD1-2 and VD7	No
Clause 49	We propose to apply clause 49(1)-(3) to certain exempt sellers. We consider clause 49 to be essential for both exempt sellers and customers to end an arrangement for the sale of electricity. This clause largely aligns with condition 22 of the Australian Energy Regulator's exempt selling guideline.	VR1-4, VD1-2 and VD7	Yes
Clause 49A	We propose to exclude this clause regarding early termination fees for customers of exempt sellers. We do not consider it appropriate to penalise customers in embedded networks with an early termination fee if they end their electricity sale agreement.	N/A	N/A
Clause 50	We propose to exclude clause 50 for exempt sellers as it relates to similar requirements in clause 9 of the order. Clause 50 outlines that a licensed retailer must provide a customer with information about its complaints and dispute resolution procedures,	N/A	N/A

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	including access to the energy ombudsman, in an electricity agreement. Clause 9 of the order also specifies that exempt sellers must provide similar information to customers prior to commencement of the arrangement for the sale of electricity and also on an annual basis.		
Clause 51	We propose to apply clause 51 to certain exempt sellers as we consider it to be an important customer protection.	VR1-4, VD1-3 and VD7	No
Clause 52	We propose to apply clause 52 to certain exempt sellers as we consider it to be an important customer protection.	VR1-4, VD1-3 and VD7	No
Clause 53	We propose to exclude clause 53 for exempt sellers as it is designed for licensed retailers. However, we propose to insert a new clause 53A that is designed for exempt sellers.	N/A	N/A
Clause 53A	We propose to apply clause 53A to certain exempt sellers. We consider clause 53A to be an important requirement so that customers are notified that they do not have an agreement in place and that this could result in the disconnection of their electricity supply. Due to the nature of embedded networks, we do not envisage that this clause will need to be used regularly but we do consider it important in case a customer starts taking	VR1-4, VD1-2 and VD7	No

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	supply without providing their details.		
Clause 54	We propose to exclude clause 54 as it relates to standard retail contracts and is therefore not relevant to exempt sellers.	N/A	N/A
Clause 55	We propose to apply clause 55 to certain exempt sellers. We consider this to be an important obligation as it requires exempt sellers to refer customers who need assistance from an interpreter to a relevant service to enable the customer to readily interact with their electricity seller. This referral could be providing the customers with the name and contact details of the federal government's Translating and Interpreting Service. ¹⁵	VR2-4 and VD2	No
Clause 56	We propose to exclude this obligation for exempt sellers. We consider clause 56 to be too onerous for many exempt sellers due to the requirement to publish information on a website – many exempt sellers will not have a website to do so. Additionally, exempt sellers are required by clause 9 of the order to provide information about complaints and dispute resolution including access to the energy ombudsman prior to commencement of the arrangement to sell electricity to a customer and on an annual basis. Additionally, we	N/A	N/A

¹⁵ <https://www.tisnational.gov.au/>

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	have included the obligation for exempt sellers to advise customers about the energy ombudsman if they have not been able to resolve a billing complaint.		
Clauses 57-59	We propose to exclude the obligations in clauses 57-59 from all categories of exempt sellers as they are not relevant. Additionally, the requirements relating to transfers of customers out of an embedded network are in the national framework.	N/A	N/A
Clause 59A	We propose to apply clause 59A to certain exempt sellers which requires them to develop standard complaints and dispute resolution procedures. However, we consider the publishing of the procedures on a website to be too onerous for many exempt sellers so have excluded this particular requirement.	VR1-4, VD1-2 and VD7	Yes
Clauses 60-68	We propose to exclude these clauses related to energy marketing as they are not relevant to exempt sellers.	N/A	N/A
Clause 69	We propose to apply clause 69 to certain exempt sellers. We consider clause 69 to be an important customer protection, particularly in situations involving embedded networks in apartment buildings or shopping centres where the tenant may not have easy access to meters and common property.	VR1-4, VD1-2 and VD7	No

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
Clause 70	We propose to exclude clause 70 from the obligations for exempt sellers as we have already included relevant provisions regarding the end of contracts (clause 49) and the obligation for an exempt seller to send a final bill to the customer (clause 35).	N/A	N/A
Clause 70A	We propose to exclude clause 70A as deemed contracts are not applicable to exempt sellers and the termination of these contracts is intrinsically linked to requirements in the relevant industry acts.	N/A	N/A
Clause 70B	We propose to apply clause 70(B)(1) to certain exempt sellers to protect customers from being charged termination fees in the case of a last resort event.	VR1-4, VD1-2 and VD7	No
Clauses 71-73	These clauses set out the operation, application and interpretation of Part 3 of the updated code, which relates to assistance for residential customers anticipating of facing payment difficulties. These clauses are critical for understanding and applying the new payment difficulties framework. As such, we propose to apply these clauses to exempt sellers who serve residential customers.	VR2-4 and VD2	No
Clauses 74-76	These clauses deal with the objective, application and obligations in relation to standard assistance for residential customers under the payment difficulties framework. Customers	VR2-4 and VD2	No

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	<p>of exempt sellers should have standard assistance available to them. We believe this is an important protection that assists customers who are not yet in arrears with affordability of an essential service, but experiencing difficulty. As such, we propose to apply these clauses to exempt sellers who serve residential customers.</p>		
Clause 77-78	<p>These clauses deal with the objective and application of tailored assistance for residential customers under the payment difficulties framework. Tailored assistance is applicable to customers who have arrears of \$55 or more due to non-payment of a bill. We propose to apply these clauses to exempt sellers who serve residential customers.</p>	VR2-4 and VD2	No
Clause 79	<p>This clause relates to the obligations with regards to tailored assistance. We believe that customers should have tailored assistance available to them to assist with affordability of an essential service. However, we believe that some clauses are likely to be too onerous for exempt sellers. As such, we propose to apply subclauses 1 (a), (b), (d) and (g) to exempt sellers who serve residential customers.</p>	VR2-4 and VD2	No
Clause 80	<p>This clause sets out the obligations on retailers in relation to the provision of information about assistance available. We believe that providing information to customers about this assistance is essential and for this reason we propose to apply this clause to exempt sellers who serve residential customers.</p>	VR2-4 and VD2	No

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
Clause 81	We consider minimum specifications for payment arrangements to be critical so that both customers and exempt sellers know exactly what constitutes a payment arrangement. This clause sets out the minimum specifications, the situations when a retailer may deviate from the minimum, the requirement for a written schedule of payments and the requirement to make timely contact with a customer when a payment has not been received. Given it is an important element of the tailored assistance we propose to apply this clause to exempt sellers who serve residential customers.	VR2-4 and VD2	No
Clause 82	We propose to exclude this clause because it directly relates to clause 79(1)(f)(i), which we do not propose to apply to exempt sellers.	N/A	N/A
Clause 83	This clause sets out the situations when a retailer can stop providing assistance. We believe this is critical to ensure that assistance is not withdrawn from vulnerable customers, while also providing options for exempt sellers to address customers who refuse assistance. As such, we propose to apply this clause to exempt sellers who serve residential customers.	VR2-4 and VD2	No
Clause 84-85	We believe that it is too onerous for exempt sellers to prepare a financial hardship policy. Further, these clauses contain a number of obligations from the Electricity Industry Act	N/A	N/A

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	2000, which does not apply to exempt sellers. We propose to exclude these clauses for exempt sellers.		
Clause 86	The obligation to provide information to customers is a critical element of the payment difficulties provisions. However, a number of subclauses relate to a financial hardship policy and publishing information on a website, which we believe is too onerous for exempt sellers. As such, we propose that clauses 86(3)(b-d) and 86(4)(b) be included for exemption categories VR2-4 and VD2.	VR2-4 and VD2	No
Clause 87	This clause relates to written communication of financial hardship information. We believe that this is important for record keeping purposes and dispute resolution. As such, we propose to apply subclauses 1 and 3-5 to for exemption categories VR2-4 and VD2. However, we only propose to apply subclause 2 to VR2 because for the other exemption categories the requirement to post written communication may actually delay customers receiving the information.	VR2-4 and VD2	No
Clause 88	This clause sets out that nothing in this division limits obligations related to the provision of information that occur elsewhere in the retail code. We propose to apply this clause to exempt sellers who serve residential customers.	VR2-4 and VD2	No

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
Clause 89	This clause sets out retailer obligations under the payment difficulties framework and gives effect to many of the obligations. As such, we propose to apply this clause to exempt sellers who serve residential customers.	VR2-4 and VD2	No
Clause 90-91	These clauses relate to the ability for retailers to provide assistance beyond the minimum and a restriction on retailers from applying any conditions to the provision of assistance. We believe that these are important protections for customers to ensure they are provided with the best assistance. As such, we propose to apply this clause to exempt sellers who serve residential customers.	VR2-4 and VD2	No
Clause 92	This clause outlines the restrictions on debt recovery and the sale of debt, specifically that customers receiving assistance. We believe these are important protections that should be available to customers of exempt sellers. As such, we propose to apply this clause to exempt sellers who serve residential customers.	VR2-4 and VD2	No
Clause 93	This clause prohibits a retailer from using a supply capacity control product for credit management purposes. We consider the prohibition on supply capacity control products for credit management to be important customer protection in the context of the Victorian energy market and with the proliferation of smart meters. As such, we propose to apply	VR2-4 and VD2	No

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	this clause to exempt sellers who serve residential customers.		
Clause 94	This clause relates to the provision of Centrepay to customers experiencing hardship. We believe this requirement is too onerous for exempt sellers and propose to exclude it.	N/A	N/A
Clauses 107-110	We propose to apply clauses 107-110 to certain exempt sellers as we consider them to be important protections for customers that also underpin elements of the payment difficulties provisions. Clauses 109 and 110 specify the minimum information that must be included on reminder notices and disconnection warning notices and partly align with condition 9 of the Australian Energy Regulator's retail guideline. These clauses also specify the minimum number of days that an exempt seller must give a customer before moving to the next stage of the disconnection process.	VR1-4, VD1-2 and VD7	Partial
Clauses 111	We propose to apply clauses 111-116 and 118 to certain exempt sellers. We consider clauses 111-116 and 118 to be important protections for customers and equally they provide sellers with the ability to disconnect a customer's electricity supply in certain circumstances. Clause 117 is not relevant to exempt sellers as it relates to dual fuel contracts (i.e. electricity and gas combined in one contract). These clauses specify when an exempt seller can and cannot disconnect a customer's	VR1, VD1 and VD7	Partial

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	supply in a variety of circumstances. These clauses partly align with condition 10 of the Australian Energy Regulator's exempt selling guideline.		
Clause 111A	This clause reiterates that residential customers are to be disconnected as a last resort for non-payment. We believe this is an important protection for maintaining access to an essential service and propose to apply it to exempt sellers who serve residential customers.	VR2-4 and VD2	Partial
Clause 112	This clause relates to obligations around de-energisation for not paying a security deposit or refusal to provide acceptable identification. As we are prohibiting security deposits for residential customer, subclause 1 only applies does not apply to those exemption categories. However, subclause 2 that relates to the refusal to provide acceptable identification is proposed to apply to exempt sellers.	Clause 112(1) – VR1, VD1, VD7 Clause 112(2) – VR1-4, VD1-2 and VD7	Partial
Clauses 113-118	We consider clauses 113-116 and 118 to be important protections for customers and equally they provide sellers with the ability to disconnect a customer's electricity supply in certain circumstances. Clause 117 is not relevant to exempt sellers as it relates to dual fuel contracts (i.e. electricity and gas combined in one contract). These clauses specify when an exempt seller can and cannot disconnect a customer's	VR1-4, VD1-2 and VD7 (excluding clause 117)	Partial

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	supply in a variety of circumstances. These clauses partly align with condition 10 of the Australian Energy Regulator’s exempt selling guideline.		
Clauses 121-122A	We propose to apply clauses 121-122A to certain exempt sellers as we consider them to be important customer protections and, equally, they provide sellers with clear expectations about reconnecting an essential service. These clauses partly align with condition 11 of the Australian Energy Regulator’s guideline.	VR1-4, VD1-2 and VD7.	Partial
Clauses 123-125	<p>We propose to apply clauses 123 and 125 to certain exempt sellers. We consider clauses 123 and 125 to be critical protections for customers who reside at a property and require life support equipment. The requirement for a retailer to notify the distributor of a customer with life support equipment is essential to ensuring that the distributor works with the customer regarding planned outages.</p> <p>In order to ensure that these obligations work effectively for customers who live in embedded networks and require life support equipment, we propose to include a new clause 125. The new clause makes it clear that an exempt seller must notify the licensed retailer they purchase electricity from about a customer requiring life support equipment. This will result in the licensed retailer notifying the licensed distributor about the customer with life support equipment. We also propose to require the exempt seller to notify the</p>	VR2-4 and VD2	Yes

Proposed clause	Draft decision	Exemption categories clause applies to	Aligns with national framework?
	<p>exempt supplier of the customer's requirement for life support equipment. The exempt supplier in turn has obligations regarding life support customers in the Electricity Distribution Code. This approach largely aligns with condition 20 of the Australian Energy Regulator's exempt selling guideline.</p>		
Schedule 8	<p>We propose to insert a new schedule 8 to apply the relevant obligations in the retail code to the different categories of exempt sellers by including the tables from the General Exemption Order 2017.</p>	N/A	N/A

Appendix C – New part 3 of the retail code: payment difficulties framework

This chapter of the decision paper outlines our proposed approach to setting the payment difficulties framework obligations for exempt sellers who serve residential customers in embedded networks. These proposed obligations come into effect on 1 January 2019.

New Part 3: Energy Retail Code (version 12)

Overview of new payment difficulties framework

From 1 January 2019, version 12 of the Energy Retail Code commences. The revised retail code includes a new payment difficulties framework that provides minimum entitlements to assistance for residential customers anticipating or facing payment difficulties.

We have outlined the main aspects of the new framework below, along with our draft decision proposing which provisions will come into effect from 1 January 2019 for exempt sellers.

There are two forms of assistance available:

- **Standard assistance** is designed to assist customers who are anticipating payment difficulties and are not yet in arrears for non-payment of a bill.
- **Tailored assistance** is designed to assist customers who are in payment difficulties and have arrears of \$55 or more due to non-payment of a bill.

Division 1: Operation of this Part (Clauses 71-73)

Draft decision

We propose to apply clause 71 as it provides an overview of the purpose of Part 3 of the retail code and makes it clear that energy is an essential service and residential customers should only be disconnected as a last resort.

We propose to amend clause 72 to make it clear which residential customers of exempt sellers are protected by Part 3 of the retail code.

We propose to apply clause 73 as it signals how we will interpret the new payment difficulties framework.

Division 1 of the amended Part 3 of the retail code focuses on how the new part will operate. Specifically:

- Clause 71 outlines the purpose of Part 3 of the retail code. In summary, it states that disconnection of a residential customer for not paying a bill is a measure of last resort.
- Clause 72 outlines that Part 3 of the retail code applies to residential customers
- Clause 73 outlines the commission's approach to how we will interpret Part 3 of the retail code. This includes giving words their ordinary meaning, or where words are unclear using relevant parts of the code, any guidelines, guidance notes or other written information to discover the meaning.

Division 2: Standard assistance (Clauses 74-76)

Draft decision

We propose to apply clause 74, as we consider it to be essential in underpinning the forms of standard assistance available to customers anticipating payment difficulties.

We propose to amend clause 75 to make it clear which residential customers of exempt sellers are protected by Division 2 of the retail code.

We propose to apply clause 76 and apply it to exempt sellers that service residential customers in exemption categories VR2-4 and VD2.

Clause 74 clarifies the objective of standard assistance and makes it clear that residential customers have an entitlement to minimum forms of assistance to help them avoid getting into arrears.

Clause 75 outlines that Division 2 of the retail code applies to residential customers.

Clause 76 is an essential part of the new payment difficulties framework and ensures that the minimum entitlements are effective in helping customers avoid getting into arrears. As such, we believe is an important customer protection that helps residential customers avoid getting into arrears.

Clause 76(1) requires a retailer to take steps to provide residential customers the forms of assistance available to help them avoid getting into arrears.

At least three of the following must be made available to a residential customer:

- making payment of an equal amount over a specified period
- option 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 energy use in advance.

Division 3: Tailored assistance

Clauses 77-78: Objective and application of tailored assistance

Draft decision

We propose to apply clause 77, as we consider it to be essential in underpinning the tailored assistance protections that are available to customers who have arrears and are facing payment difficulties.

We propose to amend clause 78 to make it clear which residential customers of exempt sellers are protected by Division 3 of the retail code.

Clause 77 clarifies the objective of tailored assistance and makes it clear that residential customers have an entitlement to minimum forms of flexible and practical assistance to help them pay for their ongoing energy use, repay their arrears and lower their energy use. .

Clause 78 outlines that Division 3 of the retail code applies to residential customers.

Clause 79: Minimum assistance

Draft decision

We propose to apply certain subclauses within clause 79 to exempt sellers, and a new clause 79(6) that will only apply to certain categories of exempt sellers: VR2-4 and VD2.

Clause 79 outlines the minimum assistance a customer who has arrears of \$55 or more (including GST) is entitled to. We consider it an important consumer protection for residential customers to have entitlements to payment arrangements when they are facing payment difficulties. We also consider it important for customers to be advised of payment options that would allow them to pay their arrears and manage their ongoing consumption. Information about government and non-government assistance, including energy concessions and utility relief grants, is also very important for customers facing payment difficulties.

However, in determining an appropriate level of regulation in the area of payment difficulties where customers cannot afford to pay the ongoing cost of their energy consumption, we do not consider it reasonable to expect exempt sellers to:

- provide specific advice about the likely cost of a customer's future energy use and how this cost may be lowered (clause 79(1)(c))
- provide practical assistance that includes:

- the tariff that is most likely to minimise the customer’s energy costs, based on the customer’s pattern of energy consumption (clause 79(1)(e)(i))
 - helping the customer reduce their energy use based on the customer’s pattern of energy use and on the circumstances of where the customer lives (clause 79(1)(e)(ii))
 - information on how the customer is progressing towards lowering their energy costs given at intervals that enable the customer to assess their progress (clause 79(1)(e)(iii))
- provide an initial period of six months where the customer’s arrears are on hold while the customer works to lower their energy consumption (clause 79(1)(f)).

These more intensive levels of tailored assistance would be onerous for many exempt sellers and therefore, at this stage, we consider it appropriate for customers to have access to flexible payment arrangements and information about government and non-government assistance.

Clause 80: Information about assistance available

Draft decision

We propose to apply all of clause 80 to exempt sellers who serve residential customers in exemption categories VR2-4 and VD2.

Clause 80 ensures that customers are provided with information about their minimum entitlements to assistance under tailored assistance in a timely way. We believe it is necessary to provide customers with an opportunity to consider the information about available assistance.

Clause 80 specifies the information a retailer is required to provide a customer who has missed a pay-by date on a bill and has arrears of \$55 or more (including GST). It also outlines that a retailer must contact a customer within 21 business days after the pay-by date to provide information about the assistance available. A retailer is required to provide the customer with six business days to consider the information about the forms of assistance available.

The order requires exempt sellers to provide information about the forms of assistance available and how to access the assistance before the commencement of the arrangement for sale of electricity and annually. It also requires this information to be provided at any time requested by the customer.¹⁶

¹⁶ Clause 9(2)-(3) of the General Exemption Order 2017

Clause 81: Payment arrangements

Draft decision

We propose to apply all of clause 81 and apply it to exempt sellers that serve residential customers in exemption categories VR2-4 and VD2.

We consider minimum specifications for payment arrangements to be critical so that both customers and exempt sellers know exactly what constitutes a payment arrangement for the purposes of clause 79(1)(a).

Clause 81(1)-(3) outlines the minimum specifications of customers' proposed payment arrangements that retailers must accept. A retailer must accept a payment arrangement if it:

- has payments of equal amounts at regular intervals of up to one month
- would result in the arrears being fully paid within a period of no more than 2 years after the first payment
- has payments, covering both the arrears and energy use, being made together
- is based on a reasonable forecast of the customer's energy use over the next 12 months.

Clause 81(4) allows a retailer, at its discretion, to accept a payment arrangement proposal that deviates from any of the minimum specifications listed above.

Clause 81(5) requires a retailer to provide a customer with a written schedule of payments showing:

- The total number of payments to be made to pay the arrears
- The period over which the payments are to be made
- The date by which each payment must be made
- The amount of each payment.

Clause 81(6) requires a retailer to contact a customer in a timely manner to revise the payment arrangement after a customer has failed to make a payment by the due date.

Clause 82: Non-payment of amounts towards ongoing energy use

Draft decision

As we are proposing to exclude clause 79(1)(f) from the obligations on exempt sellers, we propose to also exclude clause 82.

Clause 82 is directly linked to clause 79(1)(f) which is where a customer's arrears are on hold under tailored assistance.

Clause 83: Continued provision of assistance

Draft decision

We propose to apply clause 83 to all exempt sellers that serve residential customers in the exemption categories VR2-4 and VD2.

Clause 83 is crucial for allowing exempt sellers to withdraw assistance from customers in certain circumstances once they have fully discharged all of their obligations under Part 3 of the retail code.

Clause 83 outlines the circumstances when a retailer can withdraw tailored assistance after a customer has failed or refused to take reasonable action towards paying for their ongoing energy use or repaying their arrears.

Division 4: Financial hardship policies

Clauses 84-85: Approval and content of financial hardship policies

Draft decision

We propose to exclude clauses 84 and 85 as we do not consider it appropriate for exempt sellers to be required to have a hardship policy. Further, clauses 84 and 85 contain a number of obligations from the Electricity Industry Act 2000, which does not apply to exempt sellers.

Clauses 84 and 85 outline a retailer's obligations regarding the:

- approval of hardship policies by the commission
- content of hardship policies.

Customer hardship policies are obligations designed for licensed retailers and link to obligations that sit within the Electricity Industry Act 2000. The hardship policy obligations in the industry act do not apply to exempt sellers.

Division 5: Communications

Clause 86: Provision of information to customers

Draft decision

Excluded subclauses

As we are proposing to exclude the financial hardship policy requirements from exempt sellers, we consider it appropriate to exclude clauses 86(1)-(2) and 86(3)(a) as they specifically relate

to financial hardship policies. Further, we propose to exclude 86(4)(a) as we do not consider it reasonable for exempt sellers to be required to have a website as this will be too onerous for many exempt sellers.

Included subclauses

We propose to apply clauses 86(3)(b-d) and 86(4)(b) in the obligations for exempt sellers. We note that the order requires exempt sellers to provide customers with information about payment difficulties assistance and how to access that assistance, prior to obtaining the customer's explicit informed consent to enter a sale arrangement. Exempt sellers also need to provide this information to customers annually or at a customer's request. We consider that the clauses we are proposing to include will complement these obligations under the order and consider this to be sufficient information for customers.

We propose that clauses 86(3)(b-d) and 86(4)(b) be included for exemption categories VR2-4 and VD2.

Clause 86(1) requires a retailer to have a copy of its financial hardship policy published on its website in a readily printable form.

Clause 86(2) requires a retailer to send a copy of its financial hardship policy to a residential customer upon request.

Clause 86(3) requires a retailer to ensure that information is readily available to residential customers about:

- a) the financial hardship policy of the retailer
- b) the assistance available under Division 2 or 3 and how to access that assistance
- c) approaches to lowering energy costs
- d) government and non-government assistance (including Utility Relief Grants and energy concessions).

Clause 86(4) specifies that the means by which information may be made available for the purposes of 86(3) include if:

- a) it is easily accessible on the retailer's website in a readily printable form
- b) it is sent to any residential customer who requests to be sent that information.

Clause 87: Written communications

Draft decision

We propose to apply clause 87(1) to all exemption categories that serve residential customers including VR2-4 and VD2. We believe it is an important customer protection that largely aligns with the existing obligation on exempt sellers under clause 9 of the General Exemption order 2017.

We propose to apply clause 87(2) to exempt sellers in the VR2 exemption category. However, we do not consider it appropriate for exempt sellers in the VR3-4 and VD2 exemption categories. We form this view because many caravan parks and retirement villages may choose to provide the notices in person in line with the requirements under clause 3F. We consider that to be more appropriate than posting notices (which will in fact be slower).

We propose to apply clauses 87(3)-(5) to exempt sellers in categories VR2-4 and VD2 as they are important customer protections. Specifically, clause 87(3)-(4) forms part of the basis on which a retailer can disconnect a customer's electricity supply for non-payment of a bill as a measure of last resort. Therefore, we consider it critical that these clauses are included for these categories.

Clause 87(1) outlines that any written communication a retailer provides to a residential customer under Part 3 must be:

- expressed in plain language
- legible
- presented clearly and appropriately having regard to its nature.

Clause 87(2) requires a retailer to send all written communication by post unless the customer has given their explicit informed consent to receiving it in another way.

Clause 87(3)-(4) outline that information sent by post can be taken to be delivered at the time it would have been received in the ordinary course of post.

Clause 87(5) prohibits a retailer from imposing a charge on a customer for any written communication given or sent under Part 3 of the retail code.

Clause 88: Effect of this Division

Draft decision

We propose to apply clause 88 as it is an important qualifier that makes it clear that division 5 of part 3 does not limit other obligations in the retail code.

Clause 88 clarifies that nothing in division 5 limits clause 56 or any other provision of the energy retail code about providing information to customers. This assists exempt sellers with understanding that these information provision required under the payment difficulties framework is in addition to what is required elsewhere in the code and under the order.

Division 6: Miscellaneous

Clause 89: Retailer obligations

Draft decision

We propose to apply all obligations in clause 89 to exempt sellers that serve residential customers (VR2-4 and VD2).

Clause 89 is critical to the operation of many clauses in Part 3 of the retail code. Therefore, we propose to apply all its obligations to exempt sellers serving residential customers.

Clause 89 outlines a retailer's obligations under Part 3, including:

- a) taking a customer's known circumstances into account when providing tailored assistance and acting fairly and reasonably
- b) giving customers timely, clear and unambiguous information about the assistance available under Part 3
- c) providing customers with timely assistance, including using best endeavours to provide assistance
- d) providing customers with information about how to access other assistance provided by government or community service providers that the customer may be eligible for
- e) working cooperatively with any government or non-government service, including the Energy and Water Ombudsman (Victoria)
- f) compliance with any guideline published by the commission relating to customer in particular payment difficulty, including customers who may be affected by family violence.

Clause 90-91: Assistance beyond minimum standards and restriction of conditions

Draft decision

We propose to apply clause 90 as it provides retailers with the ability to provide extra assistance to customers and apply it to exemption categories VR2-4 and VD2.

We propose to apply clause 91 to exemption categories: VR2-4 and VD2, as we consider it to be an important protection that ensures customers receive their entitlements to the minimum levels of assistance under Part 3.

We believe that exempt sellers should be allowed to offer assistance to customers above what is required by the minimum standards. Exempt sellers would be able to show their own judgement in negotiating this with customers.

Clause 91 outlines that a retailer cannot impose any condition on the provision of assistance under Part 3 that requires a customer to provide personal or financial information, nor any condition that waives an entitlement to assistance. While exempt sellers can offer assistance above the minimum, these arrangements must not place these conditions on customers.

Clause 92: Debt

Draft decision

We propose to apply clause 92 to the following exempt seller categories: VR2-4 and VD2. We consider clause 92 to be an important customer protection that is integral to the operation of Part 3.

Clause 92 outlines the restrictions on debt recovery and the sale of debt, specifically that customers receiving assistance under Part 3 are protected from debt collection activity and the sale of the debt. It also restricts the sale of debt for 10 business days following the disconnection of supply under clause 111A. Additionally, it specifies that a retailer must comply with the requirements of the Debt collection guideline for creditors and collectors jointly published by the Australian Competition and Consumer Commission and the Australian Securities and Investment Commission. Lastly, it makes it clear that nothing in Part 3 of the retail code prevents a retailer from waiving any fee, charge or arrears.

Clause 93: Supply capacity control product

Draft decision

Apply clause 93 and apply it to exempt sellers that serve residential customers: VR2-4 and VD2.

Clause 93 prohibits a retailer from using a supply capacity control product for credit management purposes. We consider the prohibition on supply capacity control products for credit management to be important customer protection in the context of the Victorian energy market and with the proliferation of smart meters.

Clause 94: Payment by Centrepay

Draft decision

We propose to exclude clause 94 from the requirements as it will be impracticable and too onerous for many exempt sellers.

We note that we are proposing to require exempt sellers to offer a variety of payment methods under a new clause 32A. We further note that the AER's retail guideline does not require exempt sellers to offer Centrepay.

Clause 94 requires retailers to offer Centrepay deductions directly from a customer's Centrelink payment.

Consequential and related amendments

Draft decision

Apply all of the clauses listed below that will be amended, substituted, repealed or inserted except for clauses 34 and 40, which we have proposed to exclude from applying to exempt sellers. Exclude schedule 1 as it is not relevant to exempt sellers.

The new payment difficulty framework in Part 3 of the retail code requires the following clauses to be amended, substituted, inserted or repealed:

- Clause 3 – Amendment to definitions
- Clause 3B – Amendment purpose and application
- Clause 18 – Amendment to pre-contractual request to designated retailer
- Clause 32 – Amendment to payment methods
- Clause 33 – Repeal of payment difficulties

- Clause 34 – Amendment to shortened collection cycles
- Clause 40 – Amendment to security deposits
- Clause 56 – Amendment to provision of information to customers
- Clause 108 – Amendment to definitions
- Clause 109 – Substitution of reminder notices
- Clause 110 – Amendment to disconnection warning notices
- Clause 111 – Amendment to de-energisation for not paying bill
- Clause 111A – Insert residential customer only to be disconnected as a last resort for non-payment
- Clause 116 – Amendment to restrictions on de-energisation¹⁷
- Schedule 1 – Amendment to model terms and conditions for standard retail contracts

¹⁷ The new minimum disconnection amount is \$300 (including GST) from 1 July 2018.

Appendix D – Obligations under the General Exemption Order 2017

Clause 9 of the order – Informed consent and provision of information

We provide the following information to help stakeholders understand how the obligations in the General Exemption Order 2017 (the order) and retail code intersect. Some of the provisions in the order complement provisions in the retail code and vice versa.

In summary, the order requires exempt sellers to provide customers with certain information, in plain English, before obtaining explicit informed consent for the arrangement for the sale of electricity.¹⁸ This information includes:

1. The customer's right to elect to purchase electricity from a licensed retailer and information on the options for metering that would allow this choice.
2. That exempt sellers are not subject to all of the obligations of a licensed retailer and the customer will not receive the same protections as they would if they were purchasing from a licensed retailer.
3. The customer's rights in relation to dispute resolution including:
 - a) the contact details of the exempt person as the initial point of contact for disputes
 - b) the exempt person's procedures for handling disputes and complaints
 - c) from 1 July 2018, access to the external dispute resolution body approved by the commission.
4. The forms of assistance available if the customer is unable to payment electricity bills due to financial difficulty, as well as the process the customer should follow to seek these forms of assistance.
5. The tariffs and all fees and charges that will apply to the customer for the sale of electricity.
6. The flexible payment options that are available to the customer in relation to the sale of electricity, such as arrangements for payment by periodic instalments (bill smoothing).
7. Contact numbers in the event of an electricity fault or emergency.

¹⁸ Clause 9(1)-(2) of the General Exemption Order 2017

Appendix E – Summary tables of obligations for each category of exempt seller

The table below outlines which clauses of the retail code are applicable to exempt sellers who are in the retail exemption registration categories.

Obligations for registration exemptions – version 12 of retail code

Energy Retail Code Clause	VR1 – 10 or more small business	VR2 – 10 or more residential	VR3 – retirement village	VR4 – caravan parks	VR5 – large customers
3	Y	Y	Y	Y	N/A
3B	Y	Y	Y	Y	N/A
3C	Y	Y	Y	Y	N/A
3D	Y	Y	Y	Y	N/A
3E	N/A	N/A	N/A	N/A	N/A
3F	Y	Y	Y	Y	N/A
12-16	N/A	N/A	N/A	N/A	N/A
17	Y	Y	Y	Y	N/A
18-19	N/A	N/A	N/A	N/A	N/A
20	Some	Some	Some	Some	N/A
20A	N/A	N/A	N/A	N/A	N/A
21	Y	Y	Y	Y	N/A
22	Y	Y	Y	Y	N/A
23	Y	Y	N/A	N/A	N/A
24	Y	Y	Y	Y	N/A
25	Some	Some	Some	Some	N/A
25A	N/A	N/A	N/A	N/A	N/A
26	Y	Y	Y	Y	N/A
27	Y	Y	Y	Y	N/A
27A	N/A	Y	N/A	N/A	N/A
28	Y	Y	Y	Y	N/A
29	Y	Y	Y	Y	N/A

Energy Retail Code Clause	VR1 – 10 or more small business	VR2 – 10 or more residential	VR3 – retirement village	VR4 – caravan parks	VR5 – large customers
30	Y	Y	Y	Y	N/A
31	Y	Y	Y	Y	N/A
32	N/A	N/A	N/A	N/A	N/A
32A	Y	Y	Y	Y	N/A
32B	Y	Y	Y	Y	N/A
33	N/A	N/A	N/A	N/A	N/A
34	Y	N/A	N/A	N/A	N/A
35	Y	Y	Y	Y	N/A
35A	Some	Some	Some	Some	N/A
35B	Y	Y	Y	Y	N/A
35C	Y	Y	Y	Y	N/A
36-38	N/A	N/A	N/A	N/A	N/A
39	Y	N/A	N/A	N/A	N/A
40	Y	N/A	N/A	N/A	N/A
41	Y	N/A	N/A	N/A	N/A
42	Y	N/A	N/A	N/A	N/A
43	Y	N/A	N/A	N/A	N/A
44	Y	N/A	N/A	N/A	N/A
45	Y	N/A	N/A	N/A	N/A
46	Some	Some	Some	Some	N/A
46A	N/A	N/A	N/A	N/A	N/A
47	Y	Y	Y	Y	N/A
47A	Some	Some	Some	Some	N/A
48	Some	Some	Some	Some	N/A
49	Some	Some	Some	Some	N/A
49A-50	N/A	N/A	N/A	N/A	N/A
51	Y	Y	Y	Y	N/A
52	Y	Y	Y	Y	N/A
53	N/A	N/A	N/A	N/A	N/A
53A	Some	Some	Some	Some	N/A

Energy Retail Code Clause	VR1 – 10 or more small business	VR2 – 10 or more residential	VR3 – retirement village	VR4 – caravan parks	VR5 – large customers
54	N/A	N/A	N/A	N/A	N/A
55	N/A	Y	Y	Y	N/A
56-59	N/A	N/A	N/A	N/A	N/A
59A	Some	Some	Some	Some	N/A
60-68	N/A	N/A	N/A	N/A	N/A
69	Y	Y	Y	Y	N/A
70	N/A	N/A	N/A	N/A	N/A
70A	N/A	N/A	N/A	N/A	N/A
70B	Some	Some	Some	Some	N/A
71	N/A	Y	Y	Y	N/A
72	N/A	Y	Y	Y	N/A
73	N/A	Y	Y	Y	N/A
74	N/A	Y	Y	Y	N/A
75	N/A	Y	Y	Y	N/A
76	N/A	Y	Y	Y	N/A
77	N/A	Y	Y	Y	N/A
78	N/A	Y	Y	Y	N/A
79	N/A	Some	Some	Some	N/A
80	N/A	Y	Y	Y	N/A
81	N/A	Y	Y	Y	N/A
82	N/A	N/A	N/A	N/A	N/A
83	N/A	Y	Y	Y	N/A
84-85	N/A	N/A	N/A	N/A	N/A
86	N/A	Some	Some	Some	N/A
87	N/A	Some	Some	Some	N/A
88	N/A	Y	Y	Y	N/A
89	N/A	Y	Y	Y	N/A
90	N/A	Y	Y	Y	N/A
91	N/A	Y	Y	Y	N/A
92	N/A	Y	Y	Y	N/A

Energy Retail Code Clause	VR1 – 10 or more small business	VR2 – 10 or more residential	VR3 – retirement village	VR4 – caravan parks	VR5 – large customers
93	N/A	Y	Y	Y	N/A
94	N/A	N/A	N/A	N/A	N/A
107	Y	Y	Y	Y	N/A
108	Y	Y	Y	Y	N/A
109	Y	Y	Y	Y	N/A
110	Y	Y	Y	Y	N/A
111	Y	N/A	N/A	N/A	N/A
111A	N/A	Y	Y	Y	N/A
112	Some	Some	Some	Some	N/A
113	Y	Y	Y	Y	N/A
114	Y	Y	Y	Y	N/A
115	Y	Y	Y	Y	N/A
116	Y	Y	Y	Y	N/A
117	N/A	N/A	N/A	N/A	N/A
118	Y	Y	Y	Y	N/A
121	Y	Y	Y	Y	N/A
122A	Y	Y	Y	Y	N/A
123	N/A	Y	Y	Y	N/A
124	N/A	N/A	N/A	N/A	N/A
125	N/A	Y	Y	Y	N/A
Schedules 1-7	N/A	N/A	N/A	N/A	N/A

Obligations for deemed exemptions – version 12 of retail code

The table below outlines which clauses of the Energy Retail Code are applicable to deemed retail exemptions.

Energy Retail Code Clause	VD1 – less than 10 small business	VD2 – less than 10 residential	VD3 – short-term holiday	VD4 – temporary selling on construction sites	VD5 – related company	VD6 - ancillary selling for telco services	VD7 – government agencies
3	Y	Y	Y	N/A	N/A	N/A	Y
3B	Y	Y	Y	N/A	N/A	N/A	Y
3C	Y	Y	N/A	N/A	N/A	N/A	Y
3D	Y	Y	N/A	N/A	N/A	N/A	Y
3E	N/A	N/A	N/A	N/A	N/A	N/A	N/A
3F	Y	Y	Y	N/A	N/A	Y	Y
12-16	N/A	N/A	N/A	N/A	N/A	N/A	N/A
17	Y	Y	Y	N/A	N/A	Y	Y
18-19	N/A	N/A	N/A	N/A	N/A	N/A	N/A
20	Some	Some	Some	N/A	N/A	Some	Some
20A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
21	Y	Y	Y	N/A	N/A	N/A	Y
22	Y	Y	N/A	N/A	N/A	N/A	Y
23	Y	Y	N/A	N/A	N/A	N/A	Y
24	Y	Y	N/A	N/A	N/A	N/A	Y
25	Some	Some	Some	N/A	N/A	N/A	Some
25A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
26	Y	Y	N/A	N/A	N/A	N/A	Y
27	Y	Y	N/A	N/A	N/A	N/A	Y
27A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
28	Y	Y	N/A	N/A	N/A	N/A	Y
29	Y	Y	N/A	N/A	N/A	N/A	Y
30	Y	Y	N/A	N/A	N/A	N/A	Y
31	Y	Y	N/A	N/A	N/A	N/A	Y
32	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Energy Retail Code Clause	VD1 – less than 10 small business	VD2 – less than 10 residential	VD3 – short-term holiday	VD4 – temporary selling on construction sites	VD5 – related company	VD6 - ancillary selling for telco services	VD7 – government agencies
32A	Y	Y	Y	N/A	N/A	N/A	Y
32B	Y	Y	Y	N/A	N/A	N/A	Y
33	N/A	N/A	N/A	N/A	N/A	N/A	N/A
34	Y	N/A	N/A	N/A	N/A	N/A	Y
35	Y	Y	N/A	N/A	N/A	N/A	Y
35A	Some	Some	N/A	N/A	N/A	N/A	Some
35B	Y	Y	N/A	N/A	N/A	N/A	Y
35C	Y	Y	N/A	N/A	N/A	N/A	Y
36-38	N/A	N/A	N/A	N/A	N/A	N/A	N/A
39	Y	N/A	N/A	N/A	N/A	N/A	Y
40	Y	N/A	N/A	N/A	N/A	N/A	Y
41	Y	N/A	N/A	N/A	N/A	N/A	Y
42	Y	N/A	N/A	N/A	N/A	N/A	Y
43	Y	N/A	N/A	N/A	N/A	N/A	Y
44	Y	N/A	N/A	N/A	N/A	N/A	Y
45	Y	N/A	N/A	N/A	N/A	N/A	Y
46	Some	Some	N/A	N/A	N/A	N/A	Some
46A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
47	Y	Y	N/A	N/A	N/A	N/A	Y
47A	Some	Some	N/A	N/A	N/A	N/A	N/A
48	Some	Some	N/A	N/A	N/A	N/A	Some
49	Some	Some	N/A	N/A	N/A	N/A	Some
49A-50	N/A	N/A	N/A	N/A	N/A	N/A	N/A
51	Y	Y	Y	N/A	N/A	N/A	Y
52	Y	Y	Y	N/A	N/A	N/A	Y
53	N/A	N/A	N/A	N/A	N/A	N/A	N/A
53A	Y	Y	N/A	N/A	N/A	N/A	Y
54	N/A	N/A	N/A	N/A	N/A	N/A	N/A
55	N/A	Y	N/A	N/A	N/A	N/A	N/A

Energy Retail Code Clause	VD1 – less than 10 small business	VD2 – less than 10 residential	VD3 – short-term holiday	VD4 – temporary selling on construction sites	VD5 – related company	VD6 - ancillary selling for telco services	VD7 – government agencies
56-59	N/A	N/A	N/A	N/A	N/A	N/A	N/A
59A	Some	Some	N/A	N/A	N/A	N/A	Some
60-68	N/A	N/A	N/A	N/A	N/A	N/A	N/A
69	Y	Y	N/A	N/A	N/A	N/A	Y
70	N/A	N/A	N/A	N/A	N/A	N/A	N/A
70A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
70B	Y	Y	N/A	N/A	N/A	N/A	Y
71	N/A	Y	N/A	N/A	N/A	N/A	N/A
72	N/A	Y	N/A	N/A	N/A	N/A	N/A
73	N/A	Y	N/A	N/A	N/A	N/A	N/A
74	N/A	Y	N/A	N/A	N/A	N/A	N/A
75	N/A	Y	N/A	N/A	N/A	N/A	N/A
76	N/A	Y	N/A	N/A	N/A	N/A	N/A
77	N/A	Y	N/A	N/A	N/A	N/A	N/A
78	N/A	Y	N/A	N/A	N/A	N/A	N/A
79	N/A	Some	N/A	N/A	N/A	N/A	N/A
80	N/A	Y	N/A	N/A	N/A	N/A	N/A
81	N/A	Y	N/A	N/A	N/A	N/A	N/A
82	N/A	N/A	N/A	N/A	N/A	N/A	N/A
83	N/A	Y	N/A	N/A	N/A	N/A	N/A
84-85	N/A	N/A	N/A	N/A	N/A	N/A	N/A
86	N/A	Some	N/A	N/A	N/A	N/A	N/A
87	N/A	Some	N/A	N/A	N/A	N/A	N/A
88	N/A	Y	N/A	N/A	N/A	N/A	N/A
89	N/A	Y	N/A	N/A	N/A	N/A	N/A
90	N/A	Y	N/A	N/A	N/A	N/A	N/A
91	N/A	Y	N/A	N/A	N/A	N/A	N/A
92	N/A	Y	N/A	N/A	N/A	N/A	N/A
93	N/A	Y	N/A	N/A	N/A	N/A	N/A

Energy Retail Code Clause	VD1 – less than 10 small business	VD2 – less than 10 residential	VD3 – short-term holiday	VD4 – temporary selling on construction sites	VD5 – related company	VD6 - ancillary selling for telco services	VD7 – government agencies
94	N/A	N/A	N/A	N/A	N/A	N/A	N/A
107	Y	Y	N/A	N/A	N/A	N/A	Y
108	Y	Y	N/A	N/A	N/A	N/A	Y
109	Y	Y	N/A	N/A	N/A	N/A	Y
110	Y	Y	N/A	N/A	N/A	N/A	Y
111	Y	N/A	N/A	N/A	N/A	N/A	Y
111A	N/A	Y	N/A	N/A	N/A	N/A	N/A
112	Some	Some	N/A	N/A	N/A	N/A	Some
113	Y	Y	N/A	N/A	N/A	N/A	Y
114	Y	Y	N/A	N/A	N/A	N/A	Y
115	Y	Y	N/A	N/A	N/A	N/A	Y
116	Y	Y	N/A	N/A	N/A	N/A	Y
117	N/A	N/A	N/A	N/A	N/A	N/A	N/A
118	Y	Y	N/A	N/A	N/A	N/A	Y
121	Y	Y	N/A	N/A	N/A	N/A	Y
122A	Y	Y	N/A	N/A	N/A	N/A	Y
123	N/A	Y	N/A	N/A	N/A	N/A	N/A
124	N/A	N/A	N/A	N/A	N/A	N/A	N/A
125	N/A	Y	N/A	N/A	N/A	N/A	N/A
Schedules 1-7	N/A	N/A	N/A	N/A	N/A	N/A	N/A