



Draft National Energy Retail Amendment (Strengthening protections for customers requiring life support equipment) Rule 2017

under the National Energy Retail Law to the extent applied by:

- (a) the National Energy Retail Law (South Australia) Act 2011 of South Australia;
- (b) the National Energy Retail Law (ACT) Act 2012 of the Australian Capital Territory;
- (c) the National Energy Retail Law (Adoption) Act 2012 of New South Wales;
- (d) the National Energy Retail Law (Queensland) Act 2014 of Queensland;
- (e) the National Energy Retail Law (Tasmania) Act 2012 of Tasmania; and
- (f) the Australian Energy Market Act 2004 of the Commonwealth.

The Australian Energy Market Commission makes the following Rule under the National Energy Retail Law.

John Pierce
Chairman
Australian Energy Market Commission

Draft National Energy Retail Amendment (Strengthening protections for customers requiring life support equipment) Rule 2017

1 Title of Rule

This Rule is the Draft National Energy Retail Amendment (Strengthening protections for customers requiring life support equipment) Rule 2017.

2 Commencement

Schedule 1 commences operation on [DATE TO BE DETERMINED].

Schedule 2 commences operation on [DATE RULE IS MADE].

Note:

Draft rule is based on the National Energy Retail Rules as they will be on 1 December 2017.

3 Amendment of the National Energy Retail Rules

The National Energy Retail Rules are amended as set out in Schedule 1.

4 Savings and Transitional Amendments to the National Energy Retail Rules

The National Energy Retail Rules are amended as set out in Schedule 2.

Schedule 1 Amendments of the National Energy Retail Rules

(Clause 3)

[1] New Rule 123A Definitions

After rule 123, insert:

123A Definitions

In this Part:

confirmation reminder notice – see subrule 124A(1)(b);

deregistration or deregister means the updating of a retailer's or distributor's registration of a customer's premises under subrules 124(1)(a), 124(2), 124(3)(a) or 124(4) to remove, for the particular premises, the requirement for *life support equipment*;

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

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

medical confirmation form means a form issued by a retailer or distributor when the retailer or distributor receives advice from a customer that a person residing or intending to reside at the customer's premises requires *life support equipment* to facilitate the provision of medical confirmation by the customer.

[2] Rule 124 Retailer obligations

Omit rule 124 in its entirety, including the heading, and substitute:

124 Registration of life support equipment

(1) Retailer obligations when advised by customer

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

- (a) promptly register that a person residing or intending to reside at the customer's premises requires *life support equipment* and the date from which the *life support equipment* is required;
- (b) no later than five business days after receipt of advice from the customer, provide the customer with:

- (i) a medical confirmation form;
 - (ii) information explaining that, if the customer fails to provide medical confirmation, the customer's premises may be deregistered and, if so, the customer will cease to receive the protections under this Part;
 - (iii) advice that there may be retailer planned interruptions under rule 59C to the supply at the address and that the retailer is required to notify them of these interruptions in accordance with rule 124B;
 - (iv) advice that there may be *distributor planned interruptions* or *unplanned interruptions* to the supply at the address and that the distributor is required to notify them of a *distributor planned interruption* in accordance with rule 124B;
 - (v) information to assist the customer prepare a plan of action in the case of an *unplanned interruption*; and
 - (vi) an emergency telephone contact number for the distributor and the retailer (the charge for which is no more than the cost of a local call); and
- (c) promptly notify the distributor that a person residing or intending to reside at the customer's premises requires *life support equipment* and the date from which the *life support equipment* is required.

(2) Retailer obligations when advised by distributor

When notified by the distributor under subrule (3)(c) the retailer must promptly register that a person residing or intending to reside at the customer's premises requires *life support equipment* and the date from which the *life support equipment* is required.

(3) Distributor obligations when advised by customer

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

- (a) promptly register that a person residing or intending to reside at the customer's premises requires *life support equipment* and the date from which the *life support equipment* is required;
- (b) no later than five business days after receipt of advice from the customer, provide the customer with:
 - (i) a medical confirmation form;
 - (ii) information explaining that, if the customer fails to provide medical confirmation, the customer's premises may be deregistered and, if so, the customer will cease to receive the protections under this Part;

- (iii) advice that there may be retailer planned interruptions under rule 59C to the supply at the address and that the retailer is required to notify them of these interruptions in accordance with rule 124B;
 - (iv) advice that there may be *distributor planned interruptions* or *unplanned interruptions* to the supply at the address and that the distributor is required to notify them of a *distributor planned interruption* in accordance with rule 124B;
 - (v) information to assist the customer prepare a plan of action in the case of an *unplanned interruption*; and
 - (vi) an emergency telephone contact number for the distributor and the retailer (the charge for which is no more than the cost of a local call); and
- (c) promptly notify the retailer that a person residing or intending to reside at the customer's premises requires *life support equipment* and the date from which the *life support equipment* is required.

(4) Distributor obligations when advised by retailer

When notified by the retailer under subrule (1)(c) the distributor must promptly register that a person residing or intending to reside at the customer's premises requires *life support equipment* and the date from which the *life support equipment* is required.

(5) Content of medical confirmation form

- (a) The medical confirmation form must:
- (i) be dated;
 - (ii) state that completion and return of the form to the retailer or distributor (as the case may be) will satisfy the requirement to provide medical confirmation under the Rules;
 - (iii) request the following information from the customer:
 - (A) property address;
 - (B) the date from which the customer requires supply of energy at the premises for the purposes of the *life support equipment*; and
 - (C) medical confirmation;
 - (iv) specify the types of equipment that fall within the definition of *life support equipment*;
 - (v) advise the date by which the customer must return the medical confirmation form to the retailer or distributor (as the case may be); and

- (vi) advise the customer they can request an extension of time to complete and return the medical confirmation form.

Note:

The *AEMC* proposes to recommend to the COAG Energy Council that this rule is classified as a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)

[3] Rule 124A Registration details kept by retailer

Omit rule 124A in its entirety, including the heading, and substitute:

124A Confirmation of premises as requiring life support equipment

- (1) Subject to the requirements in rule 124, the retailer or distributor must:
 - (a) from the date of the medical confirmation form, give the customer a minimum of 50 business days to provide medical confirmation;
 - (b) provide the customer at least two notices to remind the customer that the customer must provide medical confirmation (each a **confirmation reminder notice**) during the period specified in subrule (1)(a);
 - (c) ensure the first confirmation reminder notice is provided no less than 15 business days from the date of issue of the medical confirmation form;
 - (d) ensure the second confirmation reminder notice is provided no less than 15 business days from the date of issue of the first confirmation reminder notice; and
 - (e) on request from a customer, give the customer at least one extension of time to return the medical confirmation form. The extension must be a minimum of 25 business days.
- (2) A confirmation reminder notice must:
 - (a) be dated;
 - (b) state the date by which the medical confirmation is required;
 - (c) specify the types of equipment that fall within the definition of *life support equipment*; and
 - (d) advise the customer that:
 - (i) the customer must provide medical confirmation;
 - (ii) the premises is temporarily registered as requiring *life support equipment* until the medical confirmation is received;
 - (iii) failure to provide medical confirmation may result in the premises being deregistered; and

- (iv) the customer can request an extension of time to provide medical confirmation.

Note:

The *AEMC* proposes to recommend to the COAG Energy Council that this rule is classified as a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)

[4] New Rule 124B Ongoing retailer and distributor obligations

After rule 124A, insert:

124B Ongoing retailer and distributor obligations

(1) Retailer obligations

Where a retailer is required to register a customer's premises under subrule 124(1)(a) or 124(2), the retailer has the following ongoing obligations:

- (a) give the distributor relevant information about the *life support equipment* requirements for a customer's premises for the purposes of updating the distributor's registration under subrule 124(3)(a) or 124(4), unless the relevant information was provided to the retailer by the distributor;
- (b) when advised by a customer or distributor of any updates to the *life support equipment* requirements for the customer's premises, update the registration;
- (c) except in the case of a retailer planned interruption under rule 59C, not arrange for the de-energisation of the premises from the date the *life support equipment* will be required at the premises; and
- (d) in the case of a retailer planned interruption under rule 59C, give the customer at least four business days written notice of the retailer planned interruption to supply at the premises (the four business days to be counted from, but not including the date of receipt of the notice).

Note:

The *AEMC* proposes to recommend to the COAG Energy Council that this subrule is classified as a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)

(2) Distributor obligations

Where a distributor is required to register a customer's premises under subrule 124(3)(a) or 124(4), the distributor has the following ongoing obligations:

- (a) give the retailer relevant information about the *life support equipment* requirements for a customer's premises for the purposes of updating the retailer's registration under subrule 124(1)(a) or 124(2), unless the relevant information was provided to the distributor by the retailer;

- (b) when advised by a customer or retailer of any updates to the *life support equipment* requirements for the customer's premises, update the registration;
- (c) except in the case of an *interruption*, not arrange for the de-energisation of the premises from the date the *life support equipment* will be required at the premises; and
- (d) in the case of an *interruption* that is a *distributor planned interruption*, give the customer at least four business days written notice of the *interruption* to supply at the premises (the four business days to be counted from, but not including the date of receipt of the notice).

Note:

The *AEMC* proposes to recommend to the COAG Energy Council that this subrule is classified as a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)

[5] Rule 125 Distributor obligations

Omit rule 125 in its entirety, including the heading, and substitute:

125 Deregistration of premises

- (1) A retailer or distributor may only deregister a customer's premises in the circumstances permitted by this rule 125.
- (2) If a customer's premises is deregistered:
 - (a) by a retailer, the retailer must, within five business days, notify the distributor of the date of deregistration;
 - (b) by a distributor, the distributor must, within five business days, notify the retailer of the date of deregistration; and
 - (c) the retailer and the distributor must update their registrations under subrules 124(1)(a), 124(2), 124(3)(a) and 124(4) as required by rule 126.

Cessation of retailer and distributor obligations after de-registration

- (3) The retailer and distributor obligations in rule 124B cease to apply once a premises is validly deregistered.

Deregistration where medical confirmation not provided

- (4) Where a customer, whose premises have been registered by a retailer under subrule 124(1)(a), fails to provide medical confirmation, the retailer may deregister the customer's premises only when:
 - (a) the retailer has complied with the requirements in rule 124A;

- (b) the retailer has, in addition, taken reasonable steps to contact the customer in connection with the customer's failure to provide medical confirmation in one of the following ways:
 - (i) in person;
 - (ii) by telephone; or
 - (iii) by electronic means;
 - (c) the retailer has provided the customer with a deregistration notice no less than 15 days from the date of issue of the second confirmation reminder notice; and
 - (d) the customer has not provided medical confirmation before the date for deregistration specified in the deregistration notice.
- (5) Where a customer, whose premises have been registered by a distributor under subrule 124(3)(a), fails to provide medical confirmation, the distributor may deregister the customer's premises only when:
- (a) the distributor has complied with the requirements in rule 124A;
 - (b) the distributor has, in addition, taken reasonable steps to contact the customer in connection with the customer's failure to provide medical confirmation in one of the following ways:
 - (i) in person;
 - (ii) by telephone; or
 - (iii) by electronic means;
 - (c) the distributor has provided the customer with a deregistration notice no less than 15 days from the date of issue of the second confirmation reminder notice; and
 - (d) the customer has not provided medical confirmation before the date for deregistration specified in the deregistration notice.
- (6) A deregistration notice must:
- (a) be dated;
 - (b) specify the date on which the customer's premises will be deregistered, which must be at least fifteen business days from the date of the deregistration notice;
 - (c) advise the customer the premises will cease to be registered as requiring *life support equipment* unless medical confirmation is provided before the date for deregistration; and

- (d) advise the customer that the customer will no longer receive the protections under this Part when the premises is deregistered.
- (7) In the case of deregistration under subrule (4):
 - (a) the retailer must, within five business days of deregistration, provide the distributor with a copy of the deregistration notice sent to the customer; and
 - (b) the distributor may deregister a customer's premises registered under subrule 124(4) after being notified by the retailer that the retailer has deregistered the customer's premises pursuant to subrule (4).
 - (8) In the case of deregistration under subrule (5):
 - (a) the distributor must, within five business days of deregistration, provide the retailer with a copy of the deregistration notice sent to the customer; and
 - (b) the retailer may deregister a customer's premises registered under subrule 124(2) after being notified by the distributor that the distributor has deregistered the customer's premises pursuant to subrule (5).

Deregistration where there is a change in the customer's circumstances

- (9) Where a customer whose premises have been registered by a retailer under subrule 124(1)(a) or 124(2) advises the retailer that the person for whom the *life support equipment* is required has vacated the premises or no longer requires the *life support equipment*, the retailer:
 - (a) must within five business days inform the distributor of the advice received from the customer;
 - (b) must take reasonable steps to verify the advice with the customer, but need only do so for three business days from the date the customer provides the advice; and
 - (c) may, after this three business day period, deregister the customer's premises.
- (10) Where a customer whose premises have been registered by a distributor under subrule 124(3)(a) or 124(4) advises the distributor that the person for whom the *life support equipment* is required has vacated the premises or no longer requires the *life support equipment*, the distributor:
 - (a) must within five business days inform the retailer of the advice received from the customer;
 - (b) must take reasonable steps to verify the advice with the customer, but need only do so for three business days from the date the customer provides the advice; and
 - (c) may, after this three business day period, deregister the customer's premises.

- (11) Where a retailer receives information from a distributor further to subrule (10)(a), the retailer:
 - (a) must take reasonable steps to verify the advice with the customer, but need only do so for three business days from the date the retailer receives the information from the distributor; and
 - (b) may, after this three business day period, deregister the customer's premises.
- (12) Where a distributor receives information from a retailer further to subrule (9)(a), the distributor:
 - (a) must take reasonable steps to verify the advice with the customer, but need only do so for three business days from the date the distributor receives the information from the retailer; and
 - (b) may, after this three business day period, deregister the customer's premises.
- (13) A retailer or distributor may, at any time, request a customer whose premises have been registered under rule 124 to confirm whether the person for whom *life support equipment* is required still resides at the premises or still requires *life support equipment*.

[6] Rule 126 Registration details kept by distributor

Omit rule 126 in its entirety, including the heading, and substitute:

126 Registration and deregistration details must be kept by retailers and distributors

Retailers and distributors must:

- (a) establish policies, systems and procedures for registering and deregistering a premises as requiring *life support equipment* to facilitate compliance with the requirements in this Part.
- (b) ensure that *life support equipment* registration and deregistration details entered in accordance with rules 124, 124A, 124B and 125 are kept up to date, including:
 - (i) the date when the customer requires supply of energy at the premises for the purposes of the *life support equipment*;
 - (ii) when medical confirmation was received from the customer;
 - (iii) the date when the premises is deregistered and the reason for deregistration; and
 - (iv) a record of communications with the customer required by rules 124A and 125.

Note:

The *AEMC* proposes to recommend to the COAG Energy Council that this rule is classified as a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)

Schedule 2 Savings and Transitional Amendments to the National Energy Retail Rules

(Clause 4)

[Note:

The need for transitional arrangements is subject to consultation under the Draft Determination].

[1]
