National Energy Retail Rules Version 37

Historical Information

This version of the National Energy Retail Rules was current from 01-05-2023 to 16-08-2023

Part 3 Customer hardship

70A Definitions

In this Part:

customer hardship policy guideline means the guideline made by the AER under rule 75A.

customer hardship policy means a policy as submitted by the retailer to the AER under section 43 of *the Law*.

AER Performance Reporting Procedures and Guidelines means the procedures and guidelines made by the AER under section 286 of *the Law*.

71 Obligation of retailer to communicate customer hardship policy

(1) A retailer must inform a hardship customer of the retailer of the existence of the retailer's customer hardship policy as soon as practicable after the customer is identified as a hardship customer.

(2) The retailer must provide the hardship customer with a copy of the customer hardship policy on request and at no expense.

Note

This rule is classified as a tier 1 civil penalty provision under the National Energy Retail Regulations. (See clause 6 and Schedule 1 of the National Energy Retail Regulations.)

72 Payment plans

(1) A payment plan for a hardship customer must:

(a) be established having regard to:

(i) the customer's capacity to pay; and

(ii) any arrears owing by the customer; and

(iii) the customer's expected energy consumption needs over the following 12 month period; and

(b) include an offer for the customer to pay for their energy consumption in advance or in arrears by instalment payments.

(2) A retailer who offers a payment plan under this rule for a customer must inform the customer of:

(a) the duration of the plan; and

(b) the amount of each instalment payable under the plan, the frequency of instalments and the date by which each instalment must be paid; and

(c) if the customer is in arrears—the number of instalments to pay the arrears; and

(d) if the customer is to pay in advance—the basis on which instalments are calculated.

Note

This rule is classified as a tier 1 civil penalty provision under the National Energy Retail Regulations. (See clause 6 and Schedule 1 of the National Energy Retail Regulations.)

73 Waiver of late payment fee for hardship customer

A retailer must waive any fee payable under a customer retail contract with a small customer who is a hardship customer for late payment of a bill for customer retail services.

Note

This rule is classified as a tier 1 civil penalty provision under the National Energy Retail Regulations. (See clause 6 and Schedule 1 of the National Energy Retail Regulations.)

74 Payment by Centrepay (SRC and MRC)

(1) This rule applies where a hardship customer requests a retailer to permit payment by using Centrepay as a payment option (see rule 32).

(2) If the hardship customer is applying for or on a standard retail contract, the retailer must allow the customer to use Centrepay as a payment option.

(3) If the hardship customer is on a market retail contract and Centrepay is available as a payment option under that contract, the retailer must allow the customer to use Centrepay as a payment option.

(4) If the hardship customer is on a market retail contract and Centrepay is not available as a payment option under that contract, the retailer must undertake a review of the market retail contract.

(5) If, as a result of a review, an alternative customer retail contract is considered to be more appropriate, the retailer must transfer the customer to that alternative contract, where the retailer has obtained the customer's explicit informed consent.

(6) Any alternative customer retail contract offered to a hardship customer must make Centrepay available as a payment option.

(7) If, as a result of the review, there is no alternative customer retail contract considered to be more appropriate, the retailer must make Centrepay available as a payment option under the hardship customer's existing market retail contract.

(8) The retailer must not charge the customer for the review, for any transfer to an alternative retail contract or any early termination charge or other penalty for the early termination of the customer's previous customer retail contract.

Note

This rule is classified as a tier 1 civil penalty provision under the National Energy Retail Regulations. (See clause 6 and Schedule 1 of the National Energy Retail Regulations.)

75 Hardship program indicators

(1) The AER must, in accordance with the retail consultation procedure, determine hardship program indicators to be included in the AER Performance Reporting Procedures and Guidelines.

(2) The hardship program indicators must cover the following:

(a) entry into hardship programs;

(b) participation in hardship programs;

(c) assistance available to and assistance provided to customers under customer hardship policies.

(3) The AER may from time to time amend the hardship program indicators in accordance with the retail consultation procedure.

(4) In this rule:

hardship program means a program outlined in a customer hardship policy (as referred to in section 44 (e) of *the Law*).

75A Customer hardship policy guideline

(1) The AER must, in accordance with the retail consultation procedure, develop, maintain and publish a customer hardship policy guideline.

(2) The customer hardship policy guideline must specify:

(a) processes, timeframes and requirements to be complied with by retailers in connection with the approval (or variation) of their customer hardship policies by the AER;

(b) standardised statements that retailers must include in their customer hardship policies that:

(i) inform their customers of how the retailer will comply with the minimum requirements as set out in section 44 of *the Law*; and

(ii) provide guidance to customers on their rights, and retailer obligations, with respect to Part 2, Division 6 of *the Law*.

(3) The AER may, from time to time, amend the customer hardship policy guideline in accordance with the retail consultation procedure.

75B Customer hardship policies

(1) A retailer's customer hardship policy (or variation) submitted to the AER must:

(a) comply with the customer hardship policy guideline;

(b) include the standardised statements referred to in rule 75A(2)(b); and

(c) contain clear and specific statements of the actions the retailer will take to meet the minimum requirements for a customer hardship policy in section 44 of *the Law*.

Note 1:

Section 44 of *the Law* sets out the minimum requirements for a customer hardship policy. Section 44(i) of *the Law* permits the Rules to expand the minimum requirements for customer hardship policies.

Note

This subrule is classified as a tier 1 civil penalty provision under the National Energy Retail Regulations. (See clause 6 and Schedule 1 of the National Energy Retail Regulations.)

(2) A retailer must:

(a) submit a customer hardship policy (or variation) in compliance with subrule (1):

(i) in accordance with section 43(2) of *the Law*; and

(ii) within 3 months of any amendment to the customer hardship policy guideline made by the AER under rule 75A(3); and

(b) implement and publish the customer hardship policy (or variation), as approved by the AER, on the retailer's website as soon as practicable after it has been approved.

Note

This subrule is classified as a tier 1 civil penalty provision under the National Energy Retail Regulations. (See clause 6 and Schedule 1 of the National Energy Retail Regulations.)

(3) The AER must approve, subject to section 45 of *the Law*, a customer hardship policy (or variation) that complies with subrule (1) within 3 months:

(a) of the AER receiving a customer hardship policy for approval under section 43 of *the Law*; and

(b) of the AER receiving a customer hardship policy for approval under subrule (2)(a)(ii).

76 Waiver of debt for hardship customer

Nothing in this Part prevents a retailer from waiving any fee, charge or amount of arrears for the provision of customer retail services to a hardship customer in accordance with the retailer's customer hardship policy.

Part 3A Assistance for customers affected by family violence

76A Family violence policy

A retailer must:

(a) have a *family violence policy* that sets out how the retailer will identify and assist *affected customers*, including how the retailer will apply each of the *affected customer* protections in these Rules;

(b) publish its *family violence policy* on the retailer’s website and ensure that its *family violence policy* is easily accessible on its website;

(c) implement, maintain and comply with its *family violence policy*; and

(d) review and update its *family violence policy* from time to time as required to reflect changes in circumstances or maintain consistency with leading practice.

76B Ability of retailer staff to assist affected customers

(1) A retailer must ensure that the persons identified in subrule (2) are able, on an ongoing basis, to:

(a) understand the nature and consequences of *family violence*;

(b) identify and engage appropriately and effectively with *affected customers*; and

(c) assist *affected customers* in accordance with this Part and the retailer's *family violence policy*.

(2) For the purposes of subrule (1), the persons are any person with authority or capacity to act on the retailer's behalf (including employees, contractors and agents, including call centre and marketing personnel) who:

(a) may engage with *affected customers* by any means of communication;

(b) is a manager of a person identified in subrule (2)(a); or

(c) is responsible for systems and processes that guide interactions with small customers.

76C Process to identify affected customers and avoid repeated disclosures

A retailer must implement a secure process that:

(a) provides a method to readily assess if a small customer is an *affected customer*;

(b) provides a method to readily identify the account of a small customer who has been identified as an *affected customer*;

(c) avoids the need for an *affected customer* to repeatedly disclose or refer to their experience of *family violence*; and

(d) provides for effective ongoing engagement with an *affected customer*.

76D Regard to safety and circumstances of affected customers

A retailer must, in any dealing with an *affected customer*:

(a) have regard firstly to the safety of the customer, as far as the customer's safety is impacted by them being an *affected customer*; and

(b) take into account the particular circumstances of the *affected customer*.

76E Family violence as a likely cause of hardship or payment difficulties

A retailer must recognise *family violence* as a likely cause of a residential customer being a hardship customer or a small customer experiencing payment difficulties.

76F Assistance with debt management, fees and payment methods

(1) Before taking action to recover arrears from an *affected customer* or transferring *affected customer* debt to a third party debt collector, a retailer must take into account:

(a) the potential impact of debt recovery action at that time on the *affected customer*; and

(b) whether other persons are jointly or severally responsible for the energy usage that resulted in the accumulation of those arrears.

(2) Nothing in this Part prevents a retailer from waiving, suspending or repurchasing the debt of an *affected customer*.

(3) A retailer must waive any fee payable under a customer retail contract with an *affected customer* for late payment of a bill for customer retail services.

(4) Where an *affected customer* requests a retailer to permit payment using Centrepay as a payment option, rule 74 applies as if all references to hardship customer were references to *affected customer*.

76G Affected customer information

(1) A retailer must not, and must procure that all its contractors, subcontractors and agents do not, disclose or provide access to affected customer information to any other person without the consent of the *affected customer*.

(2) Subrule (1) does not prevent a retailer or its contractors, subcontractors or agents disclosing, or providing access to, affected customer information to the extent required by law or by a lawful requirement of any government or governmental body, authority or agency having jurisdiction over the retailer or its contractors, subcontractors or agents (as applicable).

(3) In this rule:

affected customer information refers to any information that may be used to identify, communicate with or locate an *affected customer*, including information about their whereabouts, contact details, or financial or personal circumstances.

any other person means a person other than the *affected customer* and includes a person who is or has been a joint account holder with an *affected customer*, but does not include a contractor, subcontractor or agent of the retailer that requires access to the affected customer information in order to perform services for the retailer.

76H Preferred method of communication

(1) A retailer must:

(a) take reasonable steps to identify the *affected customer's* preferred method of communication; and

(b) offer alternative methods of communication if the *affected customer's* preferred method of communication identified in paragraph (a) is not practicable.

(2) A retailer must use the method of communication identified in subrule (1) in communications with the *affected customer* and the *affected customer* may use that method of communication in communications with the customer's retailer.

(3) An *affected customer's* entitlement for communications to be in accordance with the method of communication identified pursuant to subrule (1) takes precedence over any other small customer entitlement or retailer requirement in these Rules to communicate in a particular way.

(4) A retailer must keep a record of the method of communication identified in subrule (1).

76I Retailers not to require documentary evidence

A retailer must not require an *affected customer* or a third party acting on behalf of an *affected customer* to provide any documentary evidence of *family violence* as a precondition to applying these Rules or the retailer's *family violence policy*.

76J Information on family violence support services

(1) A retailer must provide an *affected customer* with information about the availability of one or more external family violence support services at a time and in a manner that is safe, respectful and appropriate given the *affected customer's* circumstances.

(2) A retailer must publish on its website and keep up to date a list of one or more external family violence support services.

76K No breach of contract for compliance with this Part

(1) If a retailer is unable to fulfil an obligation under a customer retail contract in complying with this Part, the retailer is not in breach of the contract.

(2) If an *affected customer* is unable to fulfil an obligation under their customer retail contract in using their preferred method of communication with the retailer in accordance with rule 76H(2), the customer is not in breach of the contract.

76L Consistency of market retail contract with family violence policy

(1) The terms and conditions of a market retail contract with an *affected customer* have no effect to the extent of any inconsistency with the application of the retailer's *family violence policy* to that customer.

(2) The retailer must ensure that the customer may continue to be provided with customer retail services under a customer retail contract in accordance with these Rules.

76M Application of this Part

This Part applies to market retail contracts and standard retail contracts unless otherwise expressly provided.