

# COMPLIANCE CHECK



Australian Government



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## NATIONAL ENERGY RETAIL RULES - DE-ENERGISATION IN A PROTECTED PERIOD

The Australian Energy Regulator (AER) has been notified of conduct involving de-energisation of small customers premises during protected periods specified in the National Energy Retail Rules. As part of its response, the AER has issued this Compliance Check to remind retailers and distributors of their obligations under the National Energy Retail Law and Rules.

### Conduct

The AER was notified that two distributors had de-energised small customers' premises within protected periods. We were advised that retailers may have arranged for de-energisation to occur within these protected periods, and specifically on Fridays.

### Retail Rule requirements

Section 108 defines a protected period as:

- A business day before 8am or after 3pm; or
- A Friday or the day before a public holiday; or
- A weekend or a public holiday; or
- The days between 20 December and 31 December (both inclusive) in any year.

Rule 116(1)(i) provides retailers must not arrange for the de-energisation of a small customer's premises to occur during a protected period. Distributors have a separate obligation under rule 120(1)(e), which provides distributors must not de-energise a small customer's premises during a protected period.

Rule 107 makes de-energisation of a small customer's premises (or, in the case of retailers, arranging de-energisation) other than in accordance with those rules a civil penalty provision.

Exceptions to rules 116 and 120 apply. These restrictions do not apply where a customer has requested de-energisation at that time, if the grounds for de-energisation involve illegal use of energy, or (in the case of distributors) interference, or if there are health or safety reasons warranting de-energisation.

### Responsibility for compliance

Compliance with the Retail Law and Rules is the responsibility of retailers and distributors. Also, the Retail Law requires a regulated entity to establish policies, systems and procedures to enable it to efficiently and effectively monitor its compliance with the requirements of this Law, the National Regulations and the Rules (section 273).

Retailers and distributors must comply with the restrictions on de-energisation under rules 116 and 120, and should take appropriate steps to review their systems to ensure compliance.

### AER approach to compliance

Instances of potential non-compliance with the Retail Law and Retail Rules are assessed by the AER in accordance with its Statement of Approach (available on the AER website). The AER will weigh up a range of factors in deciding on an appropriate response to particular conduct, and will take steps with the regulated entity involved.

Part of the AER's response may include issuing a Compliance Check for the broader industry to highlight the relevant obligations and to emphasise the importance of effective compliance processes and systems.

The information in this publication is general guidance only. It does not constitute legal or other professional advice, and should not be relied on as a statement of the law in any jurisdiction. Because it is intended only as a general guide, it may contain generalisations. You should obtain professional advice if you have any specific concern.

The AER has made every reasonable effort to provide current and accurate information, but it does not make any guarantees regarding the accuracy, currency or completeness of that information.