

National Energy Retail Law: customer hardship policies

Under the Retail Law, all authorised retailers must develop, maintain and implement customer hardship policies for their residential customers. The purpose of a retailer's customer hardship policy is prescribed in the Retail Law—to identify customers experiencing payment difficulties due to hardship and to assist those customers to better manage their energy bills on an ongoing basis.

In November 2018, new obligations were introduced to the National Energy Retail Rules (Retail Rules) to strengthen requirements on retailers to implement and maintain a customer hardship policy (hardship policy).ⁱ

Hardship policies must now be developed and approved by the AER in line with the [AER Customer Hardship Policy Guideline](#) (the Guideline),ⁱⁱ which was released in April 2019. The Guideline creates binding, enforceable obligations on retailers to strengthen protections for customers experiencing payment difficulties due to hardship.

Hardship policy requirements

Under the approved hardship policies, **all** retailers must:ⁱⁱⁱ

- ✓ Communicate their hardship policy to its customers with diverse communication requirements, including customers who are culturally and linguistically diverse, live remotely and/or have a disability.
- ✓ Encourage customers to consider joining their hardship program when they have a history of late payments or have requested payment extensions.
- ✓ Promote their hardship program if customers say they are experiencing payment difficulties due to hardship.
- ✓ Promote their hardship program if customers are referred by a financial counsellor or community worker.
- ✓ Promote their hardship program if customers say they are eligible for government concession programs, including relief grants or other emergency assistance.
- ✓ Provide customers with a copy of the hardship policy if requested and cannot charge customers for any postage fees incurred.
- ✓ Never place unreasonable restrictions on customers such as refusing them access to their hardship program unless they attend financial counselling or submit to an energy audit.
- ✓ Never insist customers make one-off or installed payments or force a customer to accept a payment extension before being placed on their hardship program.
- ✓ Ensure staff are trained to fairly assess hardship applications and provide timely advice within a given timeframe.
- ✓ Let hardship customers know if there are more suitable energy plans, relief schemes, energy rebates and/or financial counselling services they may be eligible for. Retailers cannot charge a fee to transfer a hardship customer to a more suitable energy plan.
- ✓ Provide strategies that may assist hardship customers in reducing their energy consumption.
- ✓ Provide flexible payment options (including a payment plan and Centrepay) for hardship customers, taking into account how much the customer owes, how much the customer can pay and their estimated energy consumption for the next 12 months.
- ✓ Ensure hardship customers understand what is required of them. For example, the requirement for customers to inform their retailer if their contact details change.
- ✓ Never charge hardship customers a late payment fee or require a security deposit.
- ✓ Never make changes to a hardship customer's plan without their explicit informed consent.

The AER encourages retailers to consider and adopt best practice approaches to meeting their customers' need when implementing their hardship policies. Communication with customers should be guided by customer needs and preferences.

The AER has worked collaboratively with a wide range of stakeholders to develop a Sustainable Payment Plans Framework. The framework provides guidance for assessing customers' capacity to pay. It is intended to improve the quality of capacity to pay conversations while still allowing flexibility and encouraging retailers to offer extra assistance to customers.

De-energisation is a last resort

De-energisation (or disconnection) of a hardship customer due to inability to pay energy bills should be a last resort option.^{iv}

A retailer **must not** arrange for de-energisation of a hardship customer's premises where the customer is adhering to a payment plan agreed under its hardship policy.^v

A retailer **must not** arrange for de-energisation of a hardship customer's premises (or the premises of a customer who has informed the retailer they are experiencing payment difficulties) unless the retailer has offered the customer two payment plans in the last 12 months and:

- the customer has agreed to neither
- the customer has agreed to one but not the other, and the plan agreed to has been cancelled for non-payment
- the customer has agreed to both and both have been cancelled for non-payment.^{vi}

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.

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ⁱ <https://www.aemc.gov.au/rule-changes/strengthening-protections-customers-hardship>

ⁱⁱ National Energy Retail Rules, rr. 75A, 75B

ⁱⁱⁱ National Energy Retail Law, s. 43(2)(c)

^{iv} National Energy Retail Law, s. 47

^v National Energy Retail Rules, r. 116(1)(d)

^{vi} National Energy Retail Rules, r. 111(2)

Submitting hardship policies for approval

All authorised retailers must submit a customer hardship policy to the AER for approval. The stronger and more standardised hardship policies approved under the Guideline aim to provide customers facing financial difficulty due to hardship with the practical support they need to manage their energy bills.

New policies have been approved for all authorised retailers operating at the time the new Guideline was made, and under the Retail Law must now be fully operational. Links to [approved and published retailer hardship policies](#) are also available on the AER website.

New retailers must develop a hardship policy that complies with the Guideline **within three months** of being granted a retailer authorisation. The hardship policy must be published on the retailer's website and implemented as soon as practicable once AER approval has been granted. Our expectation is that this will be achieved within two months—and no more than three months—from the date of approval.

Responsibility for compliance

Retailers are responsible for their own compliance. Section 273 of the Retail Law requires a regulated entity (even where functions are outsourced to a third party) to establish policies, systems and procedures to enable it to efficiently and effectively monitor its compliance with the requirements of the Retail Law, the National Regulations and the Retail Rules.

We assess instances of potential non-compliance in accordance with our [Compliance and Enforcement Policy](#) (available on the AER website).