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28 February 2017

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Submitted online via [www.aemc.gov.au](http://www.aemc.gov.au)

Dear Mr Pierce

**Request for rule change – strengthening protections for customers requiring life support equipment**

The Australian Energy Regulator (AER) is pleased to submit the attached rule change request to the Australian Energy Market Commission (AEMC). The request aims to strengthen current retailer and distributor obligations in Part 7 of the National Energy Retail Rules (Retail Rules) to ensure life support customers are fully protected under the law. The AER committed to the development of this rule change proposal in the second half of 2016.

Since the National Energy Retail Law (Retail Law) and Retail Rules commenced in 2012 we have worked with retailers and distributors to ensure compliance with the life support obligations. This has identified issues with the requirements in the Retail Rules for registering life support customers.

Specifically, issues arise under the current rules as the customer bears sole responsibility for confirming the need for life support equipment from a registered medical practitioner in order to be validly registered and receive the protections under the Retail Rules. Life support customers not validly registered in accordance with the Retail Rules can be lawfully de-energised, placing them at an increased risk of harm. The need for customer-initiated confirmation in the absence of obligations on retailers and distributors to facilitate this confirmation hampers the Retail Rules from achieving their policy intent—that is, the protection of customers requiring life support equipment.

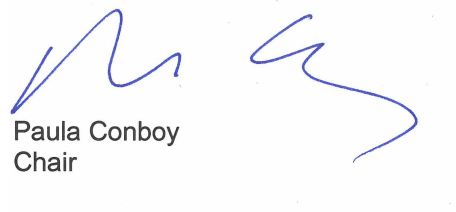
We consider that the proposed changes will strengthen the life support rules by putting in place minimum requirements for registering and deregistering customers, and placing obligations on retailers and distributors to establish and implement systems,

policies and procedures to facilitate registration. This will ensure that those requiring life support equipment are validly registered and receive the protections of the Retail Rules.

As part of the development of this rule change request, we have consulted with a range of stakeholders, including consumer groups, retailers and distributors. The feedback received, including from the retailer-distributor forum in November 2016, has allowed us to make changes and further refine the rule change proposal prior to submission to the AEMC.

Please contact Jacqueline Thorpe on (03) 9290 1994 or Imogen Hartcher-O'Brien on (03) 9290 1491 if you would like to discuss any aspect of this request.

Yours sincerely



Paula Conboy  
Chair

# National Energy Retail Rules

## Strengthening protections for customers requiring life support equipment

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## 1. Name and address of rule change proponent

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AER contacts: Jacqueline Thorpe, 03 9290 1994  
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## 2. Introduction

### 2.1 Request for rule change

In accordance with Part 10 Division 4 of the *National Energy Retail Law* (Retail Law), the Australian Energy Regulator (AER) requests the Australian Energy Market Commission (AEMC) make changes to Part 7 of the National Energy Retail Rules (Retail Rules). Specifically, we request changes to rules 123 to 126. These changes put in place minimum requirements for registering and deregistering customers, and place obligations on retailers and distributors to have policies, systems and procedures to ensure customers who have life support equipment are registered and receive the full protections under the Retail Rules.

We note that the AEMC's competition in metering services rule change<sup>1</sup> (metering rule change) will affect Part 7 of the Retail Rules from 1 December 2017 (**Attachment 2** refers). Having regard to the timings involved in effecting a rule change, in making this request we propose amendments to the post-1 December 2017 version of the Retail Rules. Our discussion of the reasons for proposing this rule change will refer to our experience administering the current version of the rules (**Attachment 1** refers). We do not consider that the metering rule change resolves the fundamental issues identified with Part 7 of the current Retail Rules.

As required by section 249 of the Retail Law, we have included a description of the proposed changes to the Retail Rules, a substantive assessment of the nature and scope of the existing issues with the current rules and how the rule change request addresses each of the issues identified. We also include an explanation of how the proposed rule change contributes to the National Energy Retail Objective (NERO).

### 2.2 Background to the rule change request

Part 7 of the Retail Rules sets out the obligations on retailers and distributors to customers who require life support equipment. An extract of what we refer to as the 'life support rules' is at **Attachment 1**. The life support rules require retailers and distributors to register premises as 'life support' where customers use certain types of medical equipment or any equipment deemed by a medical practitioner to be life support

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<sup>1</sup> See AEMC, Expanding competition in metering and related services, <http://aemc.gov.au/Rule-Changes/Expanding-competition-in-metering-and-related-serv>

equipment. Registration is central to a customer receiving the full protection of these rules. A customer is only validly registered in accordance with the Retail Rules by providing confirmation from a registered medical practitioner to a retailer or distributor or if the distributor is informed by the retailer that a person residing at the customer's premises requires life support equipment.<sup>2</sup>

We have worked with retailers and distributors to ensure compliance with the Retail Law and Retail Rules since their commencement in 2012. This has identified issues with the requirements in the Retail Rules for registering life support customers. Issues arise from the customer bearing sole responsibility for providing confirmation of the need for life support equipment from a registered medical practitioner in order to be validly registered. Life support customers not validly registered in accordance with the Retail Rules can be lawfully de-energised, placing them at an increased risk of harm. The need for customer-initiated confirmation in the absence of obligations on retailers and distributors to facilitate this confirmation hampers the Retail Rules from achieving their policy intent—that is, the protection of customers requiring life support equipment.

In order for the life support rules to be effective it is important that registration lists have integrity—that they are accurate, up to date and only contain customers requiring life support equipment. In addition to issues with the registration process, once the Retail Rules commenced we have observed a significant increase in customers on retailer and distributor life support registers. We have also observed issues with the quality of the registers as they often do not accurately or fully capture premises with people that require life support equipment. We consider a key reason for this growth is that the life support rules do not explicitly detail a process for deregistering a customer who has not provided medical confirmation.

The issues outlined above have led the AER to develop this rule change proposal. We consider that the proposed changes will strengthen the life support rules by putting in place minimum requirements for businesses to obtain confirmation of the need for life support equipment at a premise and obligate retailers and distributors to have systems, policies and procedures to facilitate the registration process. We also propose a process that would allow a business to remove a customer from its register if the need for life support equipment is not confirmed. Our proposed changes aim to ensure that customers requiring life support equipment are registered and fully protected under the Retail Law and Rules.

### **3. Current rule and proposed changes**

#### **3.1 Discussion of the current rules**

The objective of the life support rules is to ensure that premises registered as requiring life support equipment:

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<sup>2</sup> The metering rule change amends Part 7 of the Retail Rules to largely align retailer and distributor obligations to life support customers. The amendments recognise that, as a result of the metering rule change, a retailer will have the ability to effect a de-energisation without the involvement of the distributor. Therefore, retailer obligations will also be triggered when a distributor informs a retailer that a person residing at a customer's premises requires life support equipment. These changes come into effect on 1 December 2017.

- do not unexpectedly lose energy supply during a planned interruption
- are not disconnected
- are provided with a 24 hour emergency telephone number for their distributor in case of an emergency; and
- are provided with information to assist the customer to prepare an action plan in case of an unplanned interruption.<sup>3</sup>

### 3.1.1 Triggers for the life support protections

These critical consumer protections are only triggered if registration of the premises by the relevant retailer or distributor is in accordance with the life support rules. This can be done in two ways:

- Scenario 1:** the customer provides confirmation from a registered medical practitioner to either their retailer or distributor that a person residing at the premises requires life support equipment (rule 124(1) and rule 125(1)(b) for retailers and distributors respectively), or
- Scenario 2:** a retailer advises the distributor that a person residing at the customer's premises requires life support equipment (rule 125(1)(a)).

In scenario 2 a retailer merely has to advise the distributor of the customer's life support status. The retailer is not required to have received medical confirmation prior to advising the distributor about the life support customer, nor is the retailer required to provide any evidence of the medical confirmation to the distributor once it is received. This second trigger becomes relevant when we discuss issues with the registration process in section 4.

Currently, the lower threshold of scenario 2 only applies to the distributor obligations. This recognises that distributors have the ultimate ability to de-energise customers' premises and the risk posed to customers is higher than that posed by retailers, who do not have this ability. Further, it acknowledges that there is likely to be a lag between the customer advising the retailer they require life support equipment and obtaining and providing the required medical confirmation by ensuring that life support customers are not de-energised during this interim period.

This lower threshold will apply to retailers with the introduction of the metering rule change from 1 December 2017. This change aligns the retailer obligations with the distributor obligations, recognising that under the metering rules retailers will also have the ability to de-energise customers for non-payment remotely and interrupt supply for the purposes of installing, repairing or replacing a meter. While retailer and distributor obligations are largely aligned with the metering rule change, a difference between the

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<sup>3</sup> Rules 124(1) and 125(1)(b) of the Retail Rules

obligations continues to exist in the Retail Rules, acknowledging that distributors are responsible for providing information to customers about unplanned interruptions.<sup>4</sup>

### 3.1.2 Responsibility for the trigger of protections

Importantly and appropriately, in both scenarios the ultimate responsibility for triggering the life support protections lies with the customer. In scenario 2 it is implied that, before the retailer can notify the distributor, the customer must first flag to the retailer (either by the method in scenario 1 or by notifying the retailer without confirmation from a medical practitioner) that a person residing at the premise requires life support equipment.

We note that absent from the rules are requirements on businesses to provide information to a life support customer about the requirements and consequences of not being validly registered. Also absent are obligations on retailers to ensure that customers who have notified of a requirement for life support equipment but have not yet provided medical confirmation receive the associated protections.

## 3.2 Summary of issues and proposed rule

A draft rule proposing changes to the version of the Retail Rules that will come into effect on 1 December 2017 is at **Attachment 3**. The changes are described in narrative form in section 3.2.2.

### 3.2.1 What do we want our proposed changes to achieve?

Our proposed changes aim to resolve issues that we have identified with the current rules, which mainly relate to the registration process and the consequences of suboptimal registration processes. These are outlined in Table 1 and are discussed in detail in the statement of issues (section 4).

We do not propose to remove the requirement for customers to provide medical confirmation and consider that it provides the requisite standard for verification of a need for life support equipment.

**Table 1: Summary of issues with the current rules and how they are resolved by the proposed changes**

Issue with current rules	Potential customer detriment	How the proposed changes resolve the issue	Proposed rule reference
Customers must provide confirmation from a medical practitioner in order to receive the life support protections.	Customers who have only advised a business of the need for life support equipment at a premises do not receive the protections as they are not registered to receive them.	Businesses' life support obligations are triggered when advised by a customer of the need for life support equipment at a premises.	124B(1)/124B(2)

<sup>4</sup> Rules 125(2)(c)(i) and 125(2)(c)(ii) of the current Retail Rules and rules 125(2)(e)(i) and 125(2)(e)(ii) of the post-1 December 2017 Retail Rules.

<p>No onus on businesses to provide information to customers to facilitate registration when notified of the need for life support equipment.</p>	<p>Customers who have only advised businesses of the need for life support equipment at a premises do not receive the protections as they are unaware that they need to provide medical confirmation.</p>	<p>When a business is advised of the need for life support equipment at a premises, it is required to send a pack to the customer with key information.</p> <p>At a minimum, businesses are required to follow a process for confirming a premises as requiring life support, which includes sending two confirmation reminder notices.</p>	<p>124(1)/124(3)</p> <p>124A</p>
<p>Difficulty enforcing breaches of life support obligations where the customer was not registered due to deficient business processes.</p>	<p>No recourse for the customer where they have, or could have, experienced harm through a de-energisation or lack of notice of a planned interruption.</p>	<p>Businesses' life support obligations are triggered when advised by a customer of the need for life support equipment at a premises.</p> <p>When a business is advised of the need for life support equipment at a premises, it is required to send a pack to the customer with key information.</p> <p>At a minimum, businesses are required to follow a process for confirming a premises as requiring life support, which includes sending two confirmation reminder notices.</p>	<p>124B(1)/124B(2)</p> <p>124(1)/124(3)</p> <p>124A</p>
<p>Life support registers have grown as customers who have not provided medical confirmation remain flagged as requiring life support equipment at the premises.</p>	<p>Businesses experience increasing compliance costs as the number of customers requiring life support equipment grows. This potentially leads to a decreased ability to support these customers.</p>	<p>Our changes introduce a time limit on providing medical confirmation, subject to customer requests for an extension.</p> <p>If the business was first contacted by the customer about the need for life support equipment at the premises, it may deregister the customer if the customer has not provided medical confirmation. The business may only deregister if, at a minimum, they follow a prescribed process.</p>	<p>124A(1) and 124A(5)</p> <p>125</p>
<p>Life support registers have become increasingly inaccurate as they contain customers who no longer require life support or have vacated the premises.</p>	<p>Inaccurate registers lead businesses to incur higher compliance costs than they should. This potentially leads to a decreased ability to support customers that require life support equipment.</p>	<p>If the business initially responsible for the registration of the customer is notified by a retailer/distributor that a customer no longer requires life support equipment, it must take steps to verify that life support equipment is no longer needed.</p>	<p>125</p>



### 3.2.2 *Summary of the proposed changes to the rules*

#### 3.2.2.1 *New definition section defining 'confirmation reminder notice', 'deregistration notice' and 'medical confirmation form'*

Our proposed changes introduce a definitions section—rule 123A. We propose three new customer communications that are associated with the registration process and deregistration process. These are defined as follows:

- 'medical confirmation form': this form is issued by the retailer or distributor to facilitate provision of medical confirmation by the customer following receipt of advice that a person at the premises requires life support equipment. The form will provide information about the customer's obligation to provide confirmation from a medical practitioner and request specific information to assist the customer to satisfy this requirement.
- 'confirmation reminder notice': this notice is issued by the retailer or distributor to remind the customer that they must provide confirmation from a registered medical practitioner that a person at the premises requires life support equipment.
- 'deregistration notice': this notice is issued by the retailer or distributor to notify a registered customer that their premises will be removed from the register subject to the customer providing confirmation of the need for life support equipment at the premises.

#### 3.2.2.2 *Revised structure of the retailer and distributor obligations*

Our changes to the distributor obligations are identical to the changes to the retailer obligations (if 'distributor' is substituted for 'retailer' and vice versa), and so are not separately discussed, but references to distributor obligations are provided in square brackets.

We propose to structure the obligations in four parts, each reflecting a separate phase of the registration and deregistration process:

- (i) obligations when notified of the need for life support equipment
  - (ii) a process for confirming the need for life support equipment
  - (iii) ongoing obligations following registration, and
  - (iv) a process for deregistering a premises.
- (i) Life support equipment notification

Our proposed changes:

- amend the trigger for the protections to when the retailer is advised, either by the distributor or customer, that a person residing at the customer's premises requires

life support equipment. Of note, neither the distributor nor customer has to provide the retailer with confirmation from a medical practitioner in order for the protections to be triggered, although they are not precluded from doing so. Once the retailer is advised of the need for life support equipment, the customer is deemed to be registered (and will receive the life support protections) until the retailer completes the removal of registration process. This change is achieved by amending rule 124 and 124B(1)(b)/[124B(2)(b)].

- add an obligation on the retailer, once notified by the customer of the need for life support equipment at the premises, to send the medical confirmation form to the customer within five calendar days and information that the premises may be deregistered and the customer will cease to receive the protections under the law if they do not provide medical confirmation. This is achieved by the addition of rule 124(1)(b)/[124(3)(b)].

(ii) Confirmation of premises requiring life support equipment

Our changes propose to introduce a process for confirming the need for life support equipment at a premises. As discussed in the above section, a customer's confirmation of the need for life support equipment is not a prerequisite to receive the protections. However, customers will need to provide confirmation of the need for life support equipment otherwise they may be taken off the register and no longer be protected. Our changes add obligations on the retailer to:

- give the customer a minimum of 65 calendar days to provide confirmation from a registered medical practitioner. If the customer has not provided confirmation, the retailer must send at least two confirmation reminder notices to the customer no less than 21 calendar days from the date of issue of the medical confirmation form or first confirmation reminder notice.
- on request, give the customer at least one extension of a minimum 30 days to provide the confirmation.

These changes are achieved by the addition of rule 124A. We propose that this rule is a civil penalty provision.

(iii) Ongoing retailer and distributor obligations after registration

Our changes will introduce a separate rule that, following registration of a premises as requiring life support equipment, the retailer has ongoing obligations to:

- give the distributor relevant information about the premises for the distributor to update its life support register including information that a person residing at the customer's premises requires life support equipment, when the customer has provided medical confirmation or that the premises no longer requires life support equipment,
- update its register when it receives reciprocal information from the distributor

- not de-energise a premises registered as requiring life support equipment, and
- give the customer four business days' notice of planned interruptions.

These changes are achieved by the addition of rule 124B(1)/[124B(2)]. We propose that this rule is a civil penalty provision.

#### (iv) Deregistration of premises

Rule 125 introduces two processes for deregistration of premises registered as requiring life support equipment—(i) deregistration where confirmation of the need for life support equipment is not provided and (ii) deregistration where a customer advises that life support equipment is no longer used at the premises. Our changes:

- give the retailer discretion to remove a customer from the life support register where the customer has failed to provide medical confirmation, subject to specific requirements. Under this proposed rule the retailer may remove a customer from the life support register only where it has issued a removal notice to the customer and has taken reasonable steps to contact the customer about their failure to provide confirmation. The removal notice must be issued after the 65 day time limit or after the expiry of any time extensions, if requested. The customer must be contacted either in person, by telephone or by electronic means. This is achieved by the addition of rule 125(4).
- provide a process for the retailer to remove the customer from their register when advised by the customer or distributor that life support equipment is no longer required at the premises. If a customer first contacted the retailer about the need for life support equipment at a premises and the retailer receives advice from the customer or a distributor that life support equipment is no longer required at that premises, the retailer must, before deregistering the premises, take steps to verify the advice, update its records and advise the distributor of the change in the customer's status. This is achieved by the addition of rule 125(7)/[125(8)].

#### 3.2.2.3 *Registration processes, records and systems*

Our proposed changes to rule 126 maintain the focus of this rule on ensuring that retailer and distributor life support registers are accurate and current, particularly in relation to information about the date when the customer requires supply for the purpose the life support equipment, when medical confirmation is received and when the premises is deregistered. In addition businesses must have processes, records and systems in place to facilitate the registration and deregistration of life support customers to enable it to monitor compliance with the life support rules.

Due to the issues we have observed with deficient registration processes (discussed in section 4) we propose that this rule is a civil penalty provision.

## 4. Statement of issues

A discussion of the nature and scope of the issues with the current life support rules and an explanation of how the rule change proposal will address the issues is provided below. Broadly, the rule change seeks to address three main issues:

- (i) customers requiring life support equipment not being validly registered to receive the associated protections,
- (ii) difficulty enforcing rules 124(1) and 125(2) in cases where the customer does not provide medical confirmation to either the retailer or distributor respectively due to a failure in business processes, and
- (iii) significant growth in retailer and distributor life support registers due to customers remaining on registration lists where they have not provided medical confirmation, and increasing numbers of inaccurate and out-of-date registrations.

### 4.1 Ensuring the registration of customers requiring life support equipment

#### 4.1.1 *Nature and scope of issue*

As detailed in the discussion of the current rules (section 3), while it is appropriate that a customer provides evidence to a retailer or distributor from a medical practitioner of a need for life support equipment, there are no obligations on retailers and distributors to facilitate obtaining this confirmation. Once a retailer or distributor is notified by a customer of the need for life support equipment, there are no requirements to provide to the customer:

- information that the customer must provide confirmation from a registered medical practitioner in order to be validly registered
- information that the customer must be validly registered in order to receive critical protections under the law
- details about the registration process, including a registration form or instructions to obtain a medical certificate.

In addition, if the customer notifies a business of the need for life support equipment but does not subsequently provide confirmation, the rules do not obligate businesses to have processes in place to follow up with the customer. We consider that deficient retailer and distributor processes for the registration of life support customers are contributing to some life support customers not being validly registered, thereby reducing the effectiveness of the rules designed to protect this group of customers.

#### 4.1.1.1 *Survey findings*

In March 2016, we surveyed 30 businesses (22 retailers and eight distributors) to better understand the processes and systems used by businesses when registering customers as requiring life support equipment at their premises.

In particular, we sought information on:

- whether customers were required to self-identify as requiring life support equipment
- information requested prior to registering the customer as requiring life support equipment
- whether the customer is advised of the requirement for medical confirmation to ensure proper registration
- methods for accepting medical confirmation (email, hard copy, phone) and the type of confirmation that satisfies the requirement according to the business (medical certificate, phone call or letter from medical practitioner)
- types of forms used to facilitate confirmation and processes use to manage the registration processes, and
- whether there is any periodic review or reconciliation of life support registers.

The survey results showed that retailers and distributors each have different processes and procedures in place when registering and engaging with life support customers and maintaining their life support register.

Upon sign-up, 11 retailers proactively ask customers whether life support equipment will be required at the premises. Three of these retailers referred to 'call scripting' during the sign-up process where sales representatives are required to query the customer's life support status in accordance with a mandatory sales script. Ten retailers require a customer to self-identify as a life support customer upon sign-up.

The survey responses indicate that 14 retailers and three distributors advise customers that in order to receive protection under energy laws the customer must provide confirmation from a medical practitioner. While all retailers and distributors ultimately record premises as requiring life support equipment, 13 retailers said they immediately flag a customer's account and advise the distributor even if the customer has not returned the relevant forms and medical confirmation. This grants the life support customer protection under the law (and as per scenario 2 described in section 3.1.1) in the interim period between the customer notifying the business of the requirement and providing the business with medical confirmation.

However, five retailers advised that they do not remove the life support 'flag' from a customer's premise even if medical confirmation is not provided. Only two retailers detailed processes used when the customer did not provide medical confirmation, and only eight retailers surveyed regularly follow up with the customer or periodically review their registers.

The survey responses show that while some distributors actively engage with their life support customers (for example, through an annual mail out to all registered life support customers asking for confirmation of their continued requirement for life support

equipment), almost all are reliant on retailers maintaining the integrity of their life support customer registers. Seven distributors out of the eight surveyed referred to a reconciliation process with retailers to ensure their register is up to date, and only three distributors have an independent process in place to remove life support customers from the register.

The survey responses confirm that most retailers and distributors will initially record a customer as requiring life support equipment but follow-up processes when medical confirmation is not provided are limited. In some instances the follow-up processes do not occur. In addition, very few businesses have a process in place for removing life support customers from the register even if there is no confirmation or further engagement from the life support customer after the initial contact—only two retailers and three distributors provided details of follow up procedures to ensure life support premises are registered in accordance with the Retail Rules.

A recurring theme across many of the responses is that the onus is on the customer to provide confirmation of their life support status and to advise the businesses of any changes to their status.

Table 2 provides a summary of the survey results.

**Table 2: Life support survey—registration: steps taken by retailers and distributors**

	No. of retailers completing the following steps (of 22 responses received)	No. of distributors completing the following steps (of 8 responses received)
Business proactively asks the customer if they require life support equipment on sign-up	11	N/A
Business flags premises as requiring life support equipment after being advised by the customer (either immediately or after medical confirmation is received)	22	8
Business advises customer that in order to receive protection under energy laws the customer must provide confirmation from a medical practitioner	14	3
Business sends the customer details about the registration process, including a registration form or instructions to obtain a medical certificate	22	3
If the form is not returned, retailer/distributor follows up with the customer using a variety of contact methods	8	3
Business conducts periodic reconciliation of registration lists	8	7

If customer does not engage with the business, the business has a process for removing the life support flag and advises the retailer/distributor to do the same	2	3
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#### 4.1.2 How the rule change will address this issue

We propose three main changes to the rules which will address the issue of premises requiring life support equipment not being validly registered to receive protections under the law.

##### (i) *Shifting the trigger for the life support protections*

Under the current rules, valid registration to receive the protections is tied to the customer providing a medical certificate confirming the need for life support equipment. Through new rules 124 and 124B, we propose to amend the trigger for the protections to when the business is notified, either by the customer or business, that a person residing at the customer’s premises requires life support equipment. Importantly, this change removes the issue of a customer not being ‘validly’ registered to receive the protections, as registration is triggered from the point of notification. The customer is deemed to be registered and protected until the retailer or distributor completes the removal of registration process if medical confirmation is not provided, or, if medical confirmation is provided, the customer advises that life support equipment is no longer required.

Retailers and distributors each have separate obligations to a customer under the life support rules, which, under our proposed changes, will be initiated when the customer notifies either a retailer or distributor that life support equipment is required at the premises.<sup>5</sup> As the customer will likely only contact one business, the corresponding business’s obligations will flow from being notified by the initially contacted business that the premises has life support equipment. For example, if the customer initially contacts a retailer to advise of the need for life support equipment, the distributor’s obligations will be triggered upon being advised by the retailer.

To maintain the integrity of the registration process, we believe it important for one party to have ‘ownership’ over the process for that particular customer. To minimise customer confusion we propose that the business first advised by the customer has ownership. The registration process owner becomes important when we outline the other proposed changes to the rules below.

##### (ii) *Information provision*

Despite being protected from the point of notification, a customer will still need to provide confirmation from a registered medical practitioner in order to ensure they continue to receive the protections. In order to facilitate the customer providing this confirmation, we consider that there are minimum information requirements that a

<sup>5</sup> See rules 124(1) and 125(2) of the Retail Rules for retailer and distributor obligations respectively.

customer should be aware of when they first notify a business of the need for life support equipment at the premises. As discussed in section 4.1.1 there are currently no requirements for a business to explain the life support protections and how a customer using life support equipment can continue to receive them.

At a minimum, customers should be aware that they need to confirm their requirement for life support equipment in order to ensure they continue to receive the life support protections. They should also be informed of the paperwork they need to return to the business and that completion of the paperwork will involve obtaining confirmation from a registered medical practitioner.

Once the retailer or distributor is notified by the customer of the need for life support equipment, we propose that within five calendar days businesses are obligated, through new rule 124, to give the customer a pack which contains key information about the medical confirmation process. The information pack will contain:

- a life support equipment confirmation form,
- information about the requirement to get a medical certificate from a registered medical practitioner, and
- information about the life support protections the customer will receive.

To avoid the customer receiving duplicate information packs from the retailer and distributor, we propose that the business that 'owns' the registration process for that customer (by being initially contacted by the customer about the need for life support equipment) is responsible for giving the customer the information pack. However subrules 124(2) and 124(4) acknowledge that the business that does not 'own' the registration will need to provide information to the customer that is specific to that business's obligations.

*(iii) A process for confirming the need for life support equipment*

New rule 124A introduces a process that businesses will be required, at minimum, to follow to seek confirmation. This includes requiring businesses to send out at least two confirmation reminder notices at appropriately spaced intervals (we propose no less than 21 calendar days apart) and minimum requirements to deal with requests from the customer for extensions.

We note that the drafting of these rules references a minimum time limit of 65 days for customers to provide confirmation from a medical practitioner (excluding any extensions requested). We discuss the rationale for adding this time limit in section 4.3, which addresses a separate issue of the current rules.

To avoid the customer receiving multiple contacts from both their retailer and distributor, we propose that the business that 'owns' the registration process for the customer is responsible for the medical confirmation process.



We also consider that the addition of rule 126 will complement the process for confirming the need for life support equipment. This rule places an obligation on businesses to have policies, systems and procedures to register a premises as requiring life support equipment. We do not propose to prescribe what the retailer or distributor should implement. However we would expect that, at a minimum, any such policies, systems and procedures would ensure that businesses are able to meet the new process requirements for seeking confirmation and removal of registration.

## **4.2 Ensuring the enforceability of retailer and distributor life support obligations**

### *4.2.1 Nature and scope of issue*

The current difficulty experienced by the AER in enforcing breaches of rules 124(1) and 125(2) is directly related to the issue discussed in section 4.1 of life support customers not being validly registered. We have encountered issues enforcing rules 124(1) and 125(2) in two general situations:

- (i) where the retailer de-energises a customer flagged as requiring life support equipment but due to the absence of medical confirmation from the customer there was no breach by the retailer despite the customer not receiving relevant information or forms, and
- (ii) where a distributor does not provide the required notice of a planned interruption to a premises requiring life support as the customer, due to a failure in processes, was not informed of the need to obtain medical confirmation to be registered.

Our March 2016 survey showed that businesses will, upon advice from a customer, record a property as requiring life support equipment and that many businesses will not amend its record even if medical confirmation is not provided. This issue is exacerbated by the business having limited follow-up processes and has contributed to the significant increase in the numbers of customers on life support registers.

Separately, distributors have raised concerns about potential breaches of the life support rules relating to premises where distributors have been advised by the retailer that a person at that premises requires life support equipment but confirmation from a medical practitioner has not been received.

We consider that the difficulty enforcing breaches of the current life support rules could be addressed through shifting the trigger point of the protections to when a retailer or distributor is notified of the need for life support equipment and clarifying minimum process requirements for businesses to seek medical confirmation from customers.

#### *4.2.1.1 Case studies*

Since the Retail Rules commenced in 2012, distributors have reported high numbers of breaches of the life support rules, particularly the requirement to provide a customer with four days' notice of a planned interruption (rule 125(2)(d)). In 2016 we investigated a number of potential breaches of this rule. As part of our considerations we looked at

whether the customer had been registered in accordance with the rules. Of the 40 registrations examined, in 17 cases no medical confirmation had been provided.

In each of these 17 cases, if the customer was de-energised by the retailer there would be no breach of rule 124(1). It is possible that in some of these cases the customer may not have been aware of the requirement to be validly registered as a life support customer under the Retail Rules.

As discussed in section 4.1.1 there is currently no requirement for a business to explain to a customer the requirements to be registered as a life support customer. If business processes are deficient or there is no follow-up to seek confirmation from the customer, it is unlikely there is a breach of the rules, even if a business does not meet its obligations to that customer. To support this, we provide three case studies below. All of these matters were closed as it could not be established that a breach had occurred.

- (i) **Case study 1:** A distributor reported a breach of the life support rules for failing to provide a life support customer four days' notice for a planned interruption to supply. While not typical, the customer initially contacted the distributor and was not advised of the requirement to provide medical confirmation. Subsequently, the customer experienced a loss of supply during a planned interruption and this was reported to the AER as breach of the life support obligations. Upon investigation, we determined that this was not a breach of the life support rules as the customer was not registered in accordance with rule 125(1) as no medical confirmation had been provided to the distributor. This meant the legal threshold was not met and the customer protections did not apply.
- (ii) **Case study 2:** A retailer reported a breach of rule 124(1)(a)—not registering a premises as having life support equipment which resulted in a de-energisation of a life support customer. In this instance the customer advised in writing of the need for life support equipment but deficient processes meant that no registration form was sent to the customer and nor was the customer advised they were required to provide medical confirmation. The customer therefore was not registered in accordance with rule 124. This meant the legal threshold was not met and the customer protections did not apply.
- (iii) **Case study 3:** This case relates to a reported breach of rule 124(1)(a) by a retailer. Process failures meant that two customers were not sent the registration forms at all. As such the retailer did not receive medical confirmation and the customer was not registered in accordance with rule 124. This meant the legal threshold was not met and the customer protections did not apply.

#### *4.2.2 How the rule change will address this issue*

We consider the absence of robust processes by retailers and distributors to facilitate registration of the premises in accordance with the Retail Rules contributes to the un-enforceability of these reported breaches. Specifically, while customer premises remains flagged on business systems without having met the threshold for registration it is unlikely

that the AER will be able to form a reason to believe a breach of the life support provisions has occurred.

We discuss in section 4.1.2 the proposed rule changes shifting the trigger for the life support protections, requiring an information pack to be given to the customer, putting in place a process for confirming life support, and requiring businesses to have policies, systems and procedures to facilitate registration. These changes would allow the AER to achieve increased deterrence through improved enforceability of the life support rules. In addition, it would be open to the AER to take enforcement action against businesses that have either not provided the required information to customers or have not implemented appropriate policies, systems and procedures.

### **4.3 Improving the accuracy and currency of retailer and distributor life support registers**

#### *4.3.1 Nature and scope of issue*

As discussed in the background to this request, central to the effectiveness of the life support rules are the registers that detail all premises requiring life support equipment. There is no central register of life support customers that the retailers and distributors share access to.<sup>6</sup> Each relies on the other party to assist in the maintenance and accuracy of their own registers. For example, if a customer contacts the retailer in the first instance, the customer must provide medical confirmation to their retailer and the distributor is reliant on the retailer to advise of the need for life support equipment at a customer's premises, and vice versa.

The current rules maintain asymmetry between retailer and distributor obligations, owing to the fact that distributors currently have the ultimate responsibility to de-energise a premises.<sup>7</sup> As discussed in section 3.1.1, a lower threshold exists for triggering the distributor obligations where the retailer merely has to advise the distributor of the customer's life support status, without necessarily having received medical confirmation from the customer. The retailer also does not have to provide any evidence of the medical confirmation to the distributor once it is received.

We have held a number of forums with distributors and retailers on life support matters, most recently in November 2016. In these forums the quality of retailer registration and follow-up processes has been raised as the main reason for the significant increase in life support customers. In particular, distributors have advised of retailers flagging (and subsequently advising the distributor of) an increasing number of customers who require life support equipment but have not provided confirmation from a medical practitioner.

Both retailers and distributors have acknowledged that the absence of any requirements to facilitate the registration of life support customers and deregistration of customers flagged but not confirmed as requiring life support equipment may be contributing to significant growth in life support registers that are inaccurate and out-of-date. Businesses

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<sup>6</sup> The implementation of a central life support register was canvassed by the AEMC during consultation on the metering rule change and was not adopted.

<sup>7</sup> Compared to retailers, distributors have additional obligations to provide information to customers about unplanned interruptions (rule 125(2)(c)).

have noted that the growth of life support registers is leading to significant compliance costs and there is likely to be a tipping point where there is a reduced ability to support these customers. Distributors have stressed that they are keen to support customers who require life support equipment.

#### *4.3.1.1 Survey findings*

Our March 2016 survey of retailer and distributor registration processes indicated that typically, when a customer identifies as requiring life support equipment without having provided a medical certificate, most retailers and distributors have processes to flag the customer's account as requiring life support, pending the receipt of confirmation from a medical practitioner. This 'flagging' step is essential to the protection of life support customers:

- Most retailers' systems are set up so that once the account is flagged notification is sent to the distributor advising of the life support status of the premises. At the same time registration forms are sent to the customer for completion by a medical practitioner. These must be returned by the customer to the retailer.
- Most distributors advised that once a premises is flagged the only step taken is to advise the customer to contact their retailer as they may be eligible for certain jurisdictional concessions. The retailer then completes the registration process.

Our survey found that many distributors regularly undertake audits of their registration lists and find that many customers flagged as requiring life support in their systems:

- have not provided medical confirmation to their retailer,
- no longer use life support equipment, or
- have vacated the premises.

There are no requirements for customers to regularly review and reconfirm their need for life support equipment. This means that even if the registration form is not completed by a medical professional and returned to the retailer or distributor, customers will remain flagged on retailer and distributor life support registers indefinitely.

The survey results showed that most retailers and distributors had limited processes to follow-up with customers who had not provided medical confirmation. Only two retailers and two distributors had more rigorous processes, which included removing customers from their life support register. These businesses' follow-up processes involved a minimum of three customer contacts within 60 to 90 days. One distributor confirmed that while they have a follow-up process, it had not yet resulted in a customer being removed from their life support register. Our compliance work supports these results. We are aware of one retailer having a process to remove customer from its life support register if confirmation is not received.

#### 4.3.2 *How the rule change will address this issue*

Our proposed changes aim to address the issue of inaccurate and out-of-date life support registers in two instances—(i) where the customer has notified of the need for life support equipment but has not provided medical confirmation, and (ii) where the registered customer has provided medical confirmation but no longer requires life support equipment.

Scenario (i) relates to the flagging process used by businesses when they are notified that a premises requires life support equipment. While most businesses do flag life support customers in their systems, we consider that this should ideally be an interim measure pending receipt of medical confirmation from the customer. We propose two changes to the rules which aim to strike the balance between providing protections to customers who notify of the need for life support equipment, and providing a mechanism for the deregistration of customers from life support registers if confirmation of the need for life support equipment is not provided.

##### *(i) Time limit for providing medical confirmation*

We consider that the introduction of a time limit on providing confirmation of the need for life support equipment from a medical practitioner will curb the growth of registers containing customers that may not actually require life support equipment. Rule 124A adds an obligation on the business ‘owning’ the registration to give the customer a minimum of 65 calendar days to provide confirmation from a registered medical practitioner that a person residing at the premises requires life support equipment. The 65 days starts from the date of issuing the information pack. Specifying a timeframe provides certainty for the business and customer, and a cut-off date after which the business may proceed to the deregistration process, subject to them following the process for seeking confirmation.

We propose a time limit of 65 days having regard for the time it may take for a customer to make an appointment with their medical practitioner, complete the forms and return them to their retailer or distributor. If the customer has requested an extension to return their paperwork, we propose that they be given no less than 30 extra days to do so.

##### *(ii) A process for deregistering customers where medical confirmation is not provided*

We recognise that it is important for the business to have control over the decision to deregister a customer, so we therefore propose that the deregistration process is permissive, not mandatory. While a few businesses do remove customers from their registers, we consider that there is a value in having a clear process set out in the rules, as this may provide assurance to businesses.

If, after 65 days and the receipt of two confirmation notices, the customer has not provided their medical confirmation, the business ‘owning’ the registration for that customer has the choice to proceed to the deregistration process. Rule 125 provides the minimum process that the business must follow in order to deregister a customer.

This includes taking reasonable steps to contact the customer by either telephone, electronic means or in person prior to deregistration. The business must also provide the customer with a 'deregistration notice', which will detail the date at which the customer will be deregistered and cease to receive the life support protections. If the business completes these steps it may deregister the customer and the customer will cease to receive the life support protections. The business must inform the corresponding business of the change in that customer's status.

Our proposed change to address scenario (ii) is detailed below:

*(iii) An obligation to verify if the customer requires life support at the premises*

The post-1 December 2017 version of the life support rules contain obligations on retailers and distributors to keep their registration details up to date. This includes where businesses are informed by the customer or corresponding business that the person requiring life support equipment is no longer at the premises or no longer requires the equipment.<sup>8</sup>

We understand that many distribution businesses undertake regular audits of their registration lists and provide information about out-of-date and inaccurate registrations to the corresponding business. Some businesses have raised concerns that the information they provide is not being acted upon, despite the obligation in the rules to keep registration lists up to date. Through the addition of rules 125(7) and 125(8) we therefore propose to include an obligation on businesses, where they 'own' the registration for a particular customer, to take steps to verify that life support is no longer required at the premises when advised by the business that does not own the registration that this is the case.

We consider that the addition of this obligation will support the existing obligation to keep registration lists up to date and will have the effect of decreasing the number of out-of-date registrations on businesses' life support lists.

## **5. National Energy Retail Objective (NERO)**

### **5.1 Rule change contribution to the NERO**

Section 236 of the Retail Law states that the AEMC may only make a rule if it is satisfied that the rule will or is likely to contribute to the achievement of the NERO. The NERO is set out in section 13 of the Retail Law, which is to 'promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of the supply of energy'.

We consider that the rule change will address a fundamental issue with the current life support rules by ensuring that they operate as intended to provide critical protections to a specific group of customers. In particular, the changes aim to improve the targeting of the protections in practice, so that the people who require the protections are validly

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<sup>8</sup> Rule 124A(1) and 126(1) for retailers and distributors respectively.

registered to receive them. The rule change proposal will therefore contribute to the achievement of the NERO by:

- potentially reducing businesses' costs in providing services to customers by ensuring that compliance efforts are more accurately directed at those customers requiring the life support protections. All else being equal, in a competitive energy market this will result in lower prices, which is in the long term interests of consumers.
- improving the alignment of businesses' management of life support registers and their appetite for risk. Businesses will be encouraged to manage the risks associated with inaccurate and out-of-date registers by actively facilitating the registration process and having discretion to deregister customers where medical confirmation is not received. The improved management of risk promotes the efficient operation of energy market and is in the long term interests in consumers.

## **6. Expected benefits and costs associated with the proposed rule**

### **6.1 Retailers and distributors**

Businesses have noted that, under the current rules, the growth of life support registers is leading to significant compliance costs and there is likely to be a tipping point where there is reduced ability to support these customers. Distributors have stressed that they are keen to support customers who require life support equipment. The proposed rule change will benefit businesses by ensuring that they are focused on supporting those customers who require the protections. It will also provide businesses with discretion to manage their registration lists according to their risk appetite, as the proposed rule will allow for the removal of customers from the register subject to appropriate processes being adhered to.

Benefits will also arise across industry as a result of all retailers and distributors having increasingly accurate and up to date registers. For example, distributors' current low confidence in retailer registration processes will be progressively improved as confidence grows in the integrity of registrations and the retailers' communication of changes to their life support registers to distributors, and vice versa.

Owing to the spectrum of registration processes currently in place across businesses, we expect that initial implementation costs will vary. However, we expect that businesses will incur costs likely relating to any necessary systems changes, staff training and associated changes involved in implementing policies, systems and procedures. Businesses will also incur ongoing compliance costs due to the additional obligations. Again, these costs will vary across businesses depending on the sophistication of their current life support registration processes and register management.

### **6.2 Consumers**

As a result of the proposed rule change, customers requiring life support equipment will be more likely to be aware of their rights and responsibilities when applying for life

support protections, which will ideally flow through to an increased likelihood of being registered and entitled to receive the protections.

Consumers more generally will also benefit from the changes through the improved efficiency of the operation of the energy market for the reasons discussed in section 5.1, the rule change contribution to the NERO.

### 6.3 Australian Energy Regulator

A benefit to the AER of the rule change is the improved enforceability of breaches of retailer and distributor obligations where businesses have not implemented appropriate systems, policies and procedures. This will allow the AER to achieve increased deterrence of breaches, which is a key compliance priority for 2016-17.

More broadly, the benefits of the rule change stemming from improved enforceability of the rules will complement other compliance work we are currently undertaking in the life support space. To support our enforcement work we have broadened the scope of our compliance activities to improve community awareness of the life support rules. Specific work undertaken includes:

- the development of a consumer publication outlining the life support rules and the importance of ensuring premises with life support equipment are registered<sup>9</sup>
- liaison with community groups and medical associations to raise awareness of the need for medical professionals to confirm customer requirements for life support equipment, and
- development of an information pack for general practitioners about the life support rules and the importance of providing life support customers with a medical or other form of confirmation. We have engaged INFO-MED to hand-deliver these information packs and provide an overview of the rules to approximately 2,300 GP clinics in states which have adopted the Retail Rules.

We will incur costs as a result of incidental changes to the Compliance Procedures and Guidelines<sup>10</sup>, however as these changes will be consulted on as part of broader Guideline changes, we consider that the costs will be minimal. Implementing measures to administer monitoring of additional obligations will also incur some cost. However, any additional monitoring costs will combine with existing monitoring work in this area, therefore significantly mitigating these costs.

## 7. Implementation

We note the interactions with the AEMC's metering rule change, which will commence on 1 December 2017. Feedback from stakeholders suggests that businesses have finalised

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<sup>9</sup> AER, Energy and essential medical equipment, [https://www.aer.gov.au/system/files/Energy%20and%20essential%20medical%20equipment\\_0.pdf](https://www.aer.gov.au/system/files/Energy%20and%20essential%20medical%20equipment_0.pdf)

<sup>10</sup> The current version of the AER Compliance Procedures and Guidelines is at [https://www.aer.gov.au/system/files/Compliance%20procedures%20and%20guidelines%20-%20Version%203%20-%20September%202014\\_0.pdf](https://www.aer.gov.au/system/files/Compliance%20procedures%20and%20guidelines%20-%20Version%203%20-%20September%202014_0.pdf)



systems changes to accommodate this rule change. We therefore propose that an implementation date of post-1 December 2017 will reasonably allow businesses to accommodate any systems changes arising from this rule change.

## **8. Out of scope**

Our proposed changes are limited to Part 7 of the Retail Rules where we have seen evidence of the rules not working properly. We are not proposing any changes to the retailer or distributor obligations in respect to de-energisation, planned interruptions and unplanned interruptions.

We are also not proposing changes to the rules that would operate to retrospectively apply the amended rules to retailers and distributors' lists of current life support customers. This was canvassed in our consultation with industry but we do consider it outside the scope of what we are aiming to achieve with this proposal.

Nor are we proposing a single registration list for all parties as this was dealt with in the AEMC's metering rule change and ultimately not accepted.

We are also not proposing changes to the definition of 'life support equipment' as found in Part 1 of the Retail Rules.

We do not believe that consequential changes to other rules are needed. However, we expect that changes to the Business-to-Business (B2B) Procedures may be required to support the retailer-distributor notification aspects of this rule change.

## Attachment 1 – Current life support rules

### 124 Retailer obligations

#### (1) Life support equipment

Where a customer provides a retailer with confirmation from a registered medical practitioner that a person residing at the customer's premises *life support equipment*, the retailer must:

- (a) register the premises as having *life support equipment*; and
- (b) advise the distributor that a person residing at the premises requires *life support equipment*; and
- (c) give the distributor relevant information about the premises for the purposes of updating the distributor's distribution records and registers; and
- (d) not arrange for the de-energisation of the premises while the person continues to reside at the premises and requires *life support equipment*; and
- (e) give the customer an emergency telephone contact number for the distributor (the charge for which is no more than the cost of a local call).

**Note:**

This subrule is a civil penalty provision for the purposes of *the Law* (see the National Regulations, clause 6 and Schedule 1.)

#### (2) Cessation of requirement for life support equipment

Where a customer whose premises have been registered under this rule 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 must inform the distributor as soon as possible of the advice received from the customer.

**Note:**

This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)

#### (3) Application of this rule to standard retail contracts

This rule applies in relation to standard retail contracts.

#### (4) Application of this rule to market retail contracts

This rule applies in relation to market retail contracts.

## 125 Distributor obligations

### (1) Application of this rule

This rule applies where:

- (a) a retailer advises a distributor; or
- (b) a customer provides a distributor with confirmation from a registered medical practitioner;

that a person residing at the customer's premises requires life support equipment.

### (2) Life support equipment

The distributor must:

- (a) register the premises as having *life support equipment*; and
- (b) except in the case of an *interruption* under Division 6 of Part 4, not de-energise the premises while the person continues to reside at the premises and requires the use of the *life support equipment*; and
- (c) at the time of registering the premises as having life support, give the customer:
  - i. general advice that there may be a planned or *unplanned interruption* to the supply at the address; and
  - ii. information to assist the customer to prepare a plan of action in case of an *unplanned interruption*; and
  - iii. an emergency telephone contact number for the distributor (the charge for which is no more than the cost of a local call); and
- (d) in the case of an *interruption* under Division 6 of Part 4, give the customer at least 4 business days written notice of any *planned interruptions* to supply a the premises (the 4 business days to be counted from, but not including, the date of receipt of the notice).

#### Note:

This subrule is a civil penalty provision for the purposes of *the Law* (see the National Regulations, clause 6 and Schedule 1)

## 126 Registration details kept by distributor

- (1) A distributor must ensure that registration details under rule 125 are kept up to date, including relevant details of any advice or information received from a retailer or customer that the person for whom the *life support equipment* is required has vacated the premises or no longer require the *life support equipment*.

#### Note:

This subrule is a civil penalty provision for the purposes of *the Law*.

- (2) A distributor may request a customer whose premises have been registered under rule 124 or 125 to inform the distributor if the person for whom *life support equipment* is required has vacated the premises or no longer requires *life support equipment*.

## Attachment 2 – Life support rules from 1 December 2017

### 124 Retailer obligations

#### (1A) Application of this rule

This rule applies where:

- (a) a distributor advises a retailer; or
- (b) a customer provides a retailer with confirmation from a registered medical practitioner,

that a person residing at the customer's premises requires *life support equipment*.

#### (1) Life support equipment

The retailer must:

- (a) register the premises as having *life support equipment*; and
- (b) where this rule applies as a result of rule 124(1A)(b), advise the distributor that a person residing at the premises requires *life support equipment*; and
- (c) give the distributor relevant information about the premises for the purposes of updating the distributor's distribution records and registers; and
- (d) except in the case of a *retailer planned interruption* under rule 59C, not arrange for the de-energisation of the premises while the person continues to reside at the premises and requires *life support equipment*; and
- (e) at the time of registering the premises as having *life support equipment*, give the customer:
  - (i) an emergency telephone contact number for the distributor (the charge for which is no more than the cost of a local call); and
  - (ii) general advice that there may be a *retailer planned interruption* to the supply at the address; and
- (f) in the case of a *retailer planned interruption*, give the customer at least 4 business days written notice of the *retailer planned interruption* to supply at the premises (the 4 business days to be counted from, but not including, the date of receipt of the notice).

#### Note:

This subrule is a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)

## **(2) Cessation of requirement for life support equipment**

Where a customer whose premises have been registered under this rule 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 must inform the distributor as soon as possible of the advice received from the customer.

### **Note:**

This subrule is a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)

## **(3) Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

## **(4) Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.

## **124A Registration details kept by retailer**

- (1) A retailer must ensure that registration details under rule 124 are kept up to date, including relevant details of any advice or information received from a customer that the person for whom the *life support equipment* is required has vacated the premises or no longer requires the *life support equipment*.
- (2) A retailer may request a customer whose premises have been registered under rule 124 or 125 to inform the retailer if the person for whom the *life support equipment* is required has vacated the premises or no longer requires the *life support equipment*.

## **125 Distributor obligations**

### **(1) Application of this rule**

This rule applies where:

- (a) a retailer advises a distributor; or
- (b) a customer provides a distributor with confirmation from a registered medical practitioner,

that a person residing at the customer's premises requires *life support equipment*.

### **(2) Life support equipment**

The distributor must:

- (a) register the premises as having *life support equipment*; and

- (b) where this rule applies as a result of rule 125(1)(b), advise the retailer that a person residing at the premises requires *life support equipment*; and
- (c) give the retailer relevant information about the premises for the purposes of updating the retailer's records and registers; and
- (d) except in the case of an *interruption* under Division 6 of Part 4, not de-energise the premises while the person continues to reside at the premises and requires the use of the *life support equipment*; and
- (e) at the time of registering the premises as having *life support equipment*, give the customer:
  - (i) general advice that there may be a *distributor planned interruption* or *unplanned interruption* to the supply at the address; and
  - (ii) information to assist the customer to prepare a plan of action in case of an *unplanned interruption*; and
  - (iii) an emergency telephone contact number for the distributor (the charge for which is no more than the cost of a local call); and
- (f) in the case of an *interruption* under Division 6 of Part 4, give the customer at least 4 business days written notice of any *distributor planned interruptions* to supply at the premises (the 4 business days to be counted from, but not including, the date of receipt of the notice).

**Note:**

This subrule is a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)

## **126 Registration details kept by distributor**

- (1) A distributor must ensure that registration details under rule 125 are kept up to date, including relevant details of any advice or information received from a retailer or customer that the person for whom the *life support equipment* is required has vacated the premises or no longer requires the *life support equipment*.

**Note:**

This subrule is a civil penalty provision for the purposes of *the Law*.

- (2) A distributor may request a customer whose premises have been registered under rule 124 or 125 to inform the distributor if the person for whom the *life support equipment* is required has vacated the premises or no longer requires the *life support equipment*.

## Attachment 3 – Proposed life support rules

### 123A Definitions applicable to Part 7

#### (1) Confirmation reminder notice

- (a) A *confirmation reminder notice* is issued by a retailer or distributor to remind a customer that the customer must provide confirmation from a registered medical practitioner that a person residing or intending to reside at the premises requires *life support equipment*.
- (b) A *confirmation reminder notice* must:
  - (i) state the date of issue;
  - (ii) state the date by which the confirmation is required;
  - (iii) specify the types of equipment considered to be *life support equipment* in Division 1 of Part 1 of the Rules; and
  - (iv) advise the customer that:
    - (A) the customer must provide confirmation from a registered medical practitioner that a person residing or intending to reside at the premises requires *life support equipment*;
    - (B) the premises is temporarily registered as requiring *life support equipment* until medical confirmation is received;
    - (C) failure to provide medical confirmation may result in the premises being deregistered; and
    - (D) the customer can request an extension to provide medical confirmation.

**(2) Deregistration** (including ‘deregister’) is the process by which a retailer or distributor updates its register to remove, for a particular premises, the requirement for *life support equipment*.

#### (3) Deregistration notice

- (a) A *deregistration notice* is 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 within the timeframe specified in rule 124A.
- (b) A *deregistration notice* must:
  - (i) state the date of issue;
  - (ii) state the date on which the customer’s premises will be deregistered, which must be at least seven days from the date of issue;



- (iii) 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
- (iv) advise the customer that the customer will no longer receive the protections under the law when the premises is deregistered.

#### **(4) Medical confirmation form**

- (a) A *medical confirmation form* is 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.
- (b) The *medical confirmation form* must:
  - (i) state that completion and return of the form to the retailer or distributor will satisfy the requirement to provide medical confirmation under the Rules;
  - (ii) request the following information from the customer:
    - (A) property address;
    - (B) the date from which the customer requires supply to premises for the purposes of the life support equipment; and
    - (C) certification from a registered medical practitioner confirming that a person residing or intending to reside at the customer's premises requires *life support equipment*;
  - (iii) specify the types of equipment considered to be *life support equipment* in Division 1 of Part 1 of the Rules;
  - (iv) advise the date by which the customer must return the *medical confirmation form* to the retailer or distributor; and
  - (v) advise the customer they can request an extension to complete and return the *medical confirmation form*.

## **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) register that a person residing or intending to reside at the customer's premises requires *life support equipment* in the retailer's register and the date from which the *life support equipment* is required;
- (b) no later than five 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 the law;
  - (iii) advice that there may be retailer planned interruptions to the supply at the address and the rule 124B notification requirements incumbent on the retailer; and
  - (iv) an emergency telephone contact number for the distributor and, if relevant, the retailer (the charge for which is no more than the cost of a local call); and
- (c) notify the distributor that a person residing or intending to reside at the premises requires *life support equipment*.

## **(2) Retailer obligations when advised by distributor**

When notified by the distributor under 124(3)(c) the retailer must:

- (a) register that a person residing at the customer's premises requires *life support equipment*; and
- (b) no later than five days after receipt of advice, provide the customer with:
  - (i) advice that there may be *retailer planned interruptions* to the supply at the address and the rule 124B notification requirements incumbent on the distributor; and
  - (ii) an emergency telephone contact number for the distributor and, if relevant, the retailer (the charge for which is no more than the cost of a local call).

## **(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*, a distributor must:

- (a) register that a person residing at the customer's premises requires *life support equipment* in the distributor's register;
- (b) no later than five 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 the law;
  - (iii) advice that there may be *distributor planned or unplanned interruptions* to the supply at the address and the rule 124B notification requirements incumbent on the distributor;
  - (iv) information to assist the customer prepare a plan of action in the case of an *unplanned interruption*; and

- (v) an emergency telephone contact number for the distributor (the charge for which is no more than the cost of a local call); and
- (c) notify the retailer that a person residing or intending to reside at the customer's premises requires *life support equipment*.

#### **(4) Distributor obligations when advised by retailer**

When notified by retailer under 124(1)(c) the distributor must:

- (a) register that a person residing at the customer's premises requires *life support equipment*; and
- (b) no later than five days after receipt of advice, provide the customer with:
  - (i) advice that there may be *distributor planned interruptions* and *unplanned interruptions* to the supply at the address and the rule 124B notification requirements incumbent on the distributor;
  - (ii) information to assist the customer prepare a plan of action in the case of an *unplanned interruption*; and
  - (iii) an emergency telephone contact number for the distributor (the charge for which is no more than the cost of a local call).

#### **Note:**

This rule is a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)

### **124A Confirmation of premises as requiring life support equipment**

Subject to the requirements in rule 124, the retailer or distributor must:

- (1) from the date of issue of the *medical confirmation form*, give the customer a minimum of 65 days to provide confirmation from a registered medical practitioner that a person residing or intending to reside at the customer's premises requires *life support equipment*;
- (2) during the period specified in subrule (1), provide at least two *confirmation reminder notices* to the customer;
- (3) ensure the first *confirmation reminder notice* is provided no less than 21 days from the date of issue of the *medical confirmation form*;
- (4) ensure the subsequent *confirmation reminder notice* is provided no less than 21 days from the date of issue of the first *confirmation reminder notice*; and
- (5) on request from a customer, give the customer at least one extension to return the *medical confirmation form*. The extension must be a minimum of 30 calendar days.

#### **Note:**

This rule is a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)

## 124B Ongoing retailer and distributor obligations

### (1) Retailer obligations

When a customer or distributor communicates with a retailer about *life support equipment* requirements, the retailer must:

- (a) unless advised by the distributor, give the distributor relevant information about the premises for the purposes of updating the distributor's register;
- (b) when advised by a customer or distributor, update its register;
- (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*, 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:**

This subrule is a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)

### (2) Distributor obligations

When a customer or retailer communicates with a distributor about *life support equipment* requirements, the distributor must:

- (a) unless advised by a retailer, give the retailer relevant information about the premises for the purposes of updating the retailer's register;
- (b) when advised by a customer or retailer, update its register;
- (c) except in the case of an *interruption* under Division 6 of Part 4; 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* under Division 6 of Part 4, give the customer at least four business days written notice of the *distributor 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:**

This subrule is a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)

## 125 Deregistration of premises

- (1) A retailer or distributor may deregister a premises, in accordance with this rule, if a customer:
  - (a) fails to provide medical confirmation; or
  - (b) advises that *life support equipment* is no long required.
- (2) If a customer's premises is deregistered:
  - (a) by a retailer, the retailer must, within five days, notify the distributor of the date of deregistration;
  - (b) by a distributor, the distributor must, within five days, notify the retailer of the date of deregistration; and
  - (c) both the retailer and the distributor must update their register in accordance with the requirements in 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) If a customer fails to provide medical confirmation that a person residing (or intending to reside) at the customer's premises requires *life support equipment*, the party who received the initial advice under rule 124 from the customer may deregister the customer's premises only when:
  - (a) the party has complied with the requirements in rule 124A;
  - (b) the party 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 or distributor* has provided the customer with a *deregistration notice*; and
  - (d) the customer has not provided medical confirmation before the date for deregistration specified in the *deregistration notice*.
- (5) In the case of retailer initiated deregistration, the retailer must, within five days of deregistration, provide the distributor with a copy of the *deregistration notice* sent to the customer.

- (6) In the case of distributor initiated deregistration, the distributor must, within five days of deregistration, provide the retailer with a copy of the *deregistration notice* sent to the customer.

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

- (7) If a retailer, who in accordance with rule 124(1), registered a customer's premises as requiring *life support equipment* following notification from the customer, receives a deregistration request from the customer, the retailer:
- (a) must take steps to verify the deregistration request with the customer, but need only do so for three days from the date of notification;
  - (b) may, after this three day period, deregister the customer.
- (8) If a distributor, who in accordance with rule 124(3), registered a customer's premises as requiring *life support equipment* following notification from the customer, receives a deregistration request from the customer, the distributor:
- (a) must take steps to verify the deregistration request with the customer, but need only do so for three days from the date of notification;
  - (b) may, after this three day period, deregister the customer.
- (9) If a retailer, who in accordance with rule 124(2), registered a customer's premises as requiring *life support equipment* following notification from a distributor, receives a deregistration request from the customer:
- (a) the retailer must, upon receipt of the deregistration request:
    - (i) inform the customer as soon as practicable but no later than within two days:
      - (A) that the distributor, being the party with whom the customer arranged registration of the premises as requiring *life support equipment*, is also responsible for deregistration;
      - (B) the retailer will refer the request to the distributor within two days; and
      - (C) the distributor will contact the customer to verify the deregistration request;
    - (ii) refer the deregistration request to the distributor within two days of the request;
  - (b) the distributor, following referral from the retailer:
    - (i) must take steps to verify the deregistration request with the customer, but need only do so for three days from the date of referral;
    - (ii) may, after this three day period, deregister the customer.
- (10) If a distributor, who in accordance with rule 124(4), registered a customer's premises as requiring *life support equipment* following notification from a retailer, receives a deregistration request from the customer:

- (a) the distributor must, upon receipt of the deregistration request:
  - (i) refer the deregistration request to the retailer within two days of the request;
  - (ii) inform the customer as soon as practicable but no later than within two days:
    - (A) that the retailer, being the party with whom the customer arranged registration of the premises as requiring *life support equipment*, is also responsible for deregistration;
    - (B) the distributor will refer the request to the retailer within two days; and
    - (C) the retailer will contact the customer to verify the deregistration request;
- (a) the retailer, following referral from the distributor:
  - (i) must take steps to verify the deregistration request with the customer, but need only do so for three days from the date of referral;
  - (ii) may, after this three day period, deregister the customer.

(11) A retailer or distributor may, at any time, request a customer whose premises has been registered under rule 124 to advise when the person for whom *life support equipment* is required no longer resides at the premises or no longer requires *life support equipment*.

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

- (1) 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 Part 7.
  - (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 to 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:**

This rule is a civil penalty provision for the purposes of *the Law*. (See the National Regulations, clause 6 and Schedule 1.)