

## **Energy Coordination (Customer Contracts) Amendment Regulations 2021**

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## Energy Coordination (Customer Contracts) Amendment Regulations 2021

Made by the Governor in Executive Council.

### 1. Citation

These regulations are the *Energy Coordination (Customer Contracts) Amendment Regulations 2021*.

### 2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

### 3. Regulations amended

These regulations amend the *Energy Coordination (Customer Contracts) Regulations 2004*.

*[The following text is the Energy Coordination (Customer Contracts) Regulations 2004 showing proposed amendments in track changes. A formal amending instrument will be drafted at a later stage.]*

### 3. Terms used

In these regulations, unless the contrary intention appears —

~~AGA Code means the Natural Gas Customer Service Code (AG 755 1998) of the Australian Gas Association as in force from time to time;~~

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***billing data*** means information contained in or relating to bills that have been issued by a [retailer](#) ~~retail-supplier~~ to a customer;

***business day*** means a day that is not a Saturday, Sunday or public holiday;

***charge*** includes price and tariff;

***Code of Conduct*** means the code of conduct approved under [section 11ZPM of the Act](#);

~~***Code of Conduct*** means the *Gas Marketing Code of Conduct 2004*;~~

***customer*** has the meaning given to that term in [section 11WB of the Act](#);

***customer contract*** means a standard form contract or a non-standard contract;

***customer service charter***, in relation to a [retailer](#) ~~retail-supplier~~, means the customer service charter that the [retailer](#) ~~retail-supplier~~ is required to prepare as a condition of its trading licence;

***disconnection*** means the disconnection of supply;

***fixed term contract*** means a non-standard contract that is expressed to have effect for a definite period;

***gas distribution operator*** means the person who is required to hold a distribution licence for the distribution system through which gas is supplied to the customer;

***gas industry ombudsman*** has the meaning given to that term in [section 11ZPZ\(1\) of the Act](#);

***gas industry ombudsman scheme*** means a scheme that is approved, or taken to be approved, under Part 2D Division 2 of the Act;

***meter*** means equipment used to measure the quantity of gas supplied to a customer;

***network equipment*** means the meter and any pipes, apparatus or other equipment used for or in connection with the supply of gas and located upstream from the meter;

*non-standard contract* has the meaning given to that term in section 11WB of the Act;

*provision* of a customer contract means a provision, term or condition of a customer contract;

*reconnection* means the reconnection of supply;

~~*refundable advance* means an amount of money required by a retail supplier from a customer as security against the customer defaulting on a payment due to the retail supplier under a customer contract;~~

*relevant code* means a code, standard or other document referred to in regulation 10;

*residential customer* means a customer who is required to pay a residential charge;

*retailer* means the holder of a trading licence;

~~*retail supplier* means the holder of a trading licence;~~

*security deposit* means an amount of money provided as security against a customer defaulting on a payment due to a retailer under a customer contract;

*standard form contract* has the meaning given to that term in section 11WB of the Act;

*supply* means the supply of gas to a customer;

*supply address* means the address of the place to which gas is, or will be, supplied under a customer contract.

#### 4. Status of notes

Notes in these regulations are provided to assist understanding and do not form part of the regulations.

## **Part 2 — Requirements for all customer contracts**

### **5. Format and expression**

- (1) A customer contract must be in a format that makes it easy to read.
- (2) A customer contract must be expressed in clear, simple and concise language.

### **6. Duration of contract**

A customer contract must specify the day on which the contract comes into effect and the period for which it has effect.

### **7. Details of retailer ~~retail supplier~~**

A customer contract must specify the retailers — ~~retail supplier's~~ —

- (a) company name and business name (if different from its company name);
- (b) Australian Business Number or Australian Company Number;
- (c) registered office address and business address (if different from its registered office address);
- (d) postal address;
- (e) telephone number;
- (f) email address; and
- (g) internet website address.

### **8. Description of goods and services**

A customer contract must give an exact description of the goods and services that the retailer ~~retail supplier~~ will provide under the contract.



**9. Roles of retailer ~~retail-supplier~~ and gas distribution operator**

A customer contract must explain the respective functions of the retailer ~~retail-supplier~~ and the gas distribution operator in relation to supply.

**10. Relevant codes**

A customer contract must specify any code, standard or similar document that —

- (a) the retailer ~~retail-supplier~~ has agreed to comply with;  
and
- (b) is relevant to matters dealt with in the contract.

**11. Certain obligations of customer in relation to supply**

- (1) A customer contract must prohibit the customer from tampering with or bypassing the meter or allowing any other person to do so.
- (2) A customer contract must prohibit the customer from turning gas on at the meter, without the retailer's ~~retail-supplier's~~ permission, if the gas has been turned off by the retailer ~~retail-supplier~~ or the gas distribution operator.

**12. Disconnection and reconnection**

- (1) A customer contract must deal with the following matters —
  - (a) the obligations of the retailer ~~retail-supplier~~ in relation to disconnection and reconnection;
  - (b) the rights of the customer before disconnection;
  - (c) the circumstances in which supply may be disconnected or reconnected;
  - (d) the circumstances in which supply must not be disconnected;

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- (e) the process for disconnection or reconnection including when notice of disconnection or reconnection is to be given to the customer and the way in which it is to be given;
  - (f) any charges payable by the customer in respect of disconnection or reconnection.
- (2) Without limiting subregulation (1), a customer contract must prohibit a ~~retailer, retail supplier~~, except in circumstances where disconnection is required under the *Gas Standards Act 1972*, from disconnecting supply or causing disconnection to occur if —
- (a) the customer has provided to the ~~retailer retail supplier~~ a written statement from a medical practitioner to the effect that supply is necessary in order to protect the health of a person who lives at the customer's supply address; and
  - (b) the customer has entered into arrangements acceptable to the ~~retailer retail supplier~~ in relation to payment for gas supplied.
- (3) In subregulation (2) —  
**medical practitioner** means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.
- (4) Without limiting subregulation (1), a customer contract must require the ~~retailer, retail supplier~~, before disconnecting supply for non-payment of a bill —
- (a) to give a written notice (the **reminder notice**) to the customer not less than 14 business days after the day on which the bill was issued (the **billing day**) advising the customer that payment is overdue and requiring payment to be made on or before the day specified in the reminder notice (being a day not less than 20 business days after the billing day); and

- (b) if payment is not made on or before the day specified in the reminder notice, to give a further written notice (the *disconnection warning*) to the customer not less than 22 business days after the billing day advising the customer that disconnection will occur unless payment is made on or before the day specified in the disconnection warning (being a day not less than 10 business days after the day on which the disconnection warning is given).
- (5) Without limiting subregulation (1), a customer contract must require the retailer, ~~retail supplier~~, subject to the provisions of any written law or relevant code, to reconnect supply if —
- (a) within 10 business days after disconnection for non-payment of a bill, the customer pays the overdue amount or makes an arrangement for its payment;
  - (b) within 10 business days after disconnection for denial of access to a meter, the customer provides access to the meter;
  - (c) within 10 business days after disconnection for unlawful consumption of gas, the customer pays for the gas consumed;
  - (d) within 10 business days after disconnection for refusal to pay a security deposit, ~~refundable advance~~, the customer pays the security deposit; or ~~refundable advance~~; or
  - (e) within 20 business days after disconnection in an emergency situation or for health, safety or maintenance reasons, the situation or problem giving rise to the need for disconnection has been rectified,

and if the customer has paid any applicable reconnection fee.

- ~~(6) Without limiting subregulation (1), a customer contract must include provisions that have the same effect as the clauses of the AGA Code referred to in the Table to this subregulation, subject to the modification provided for in subregulation (7).~~

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**Table**

<b>Clause</b>	<b>Description</b>
<del>clause 5.1.1</del>	<del>Disconnection for unpaid bills</del>
<del>clause 5.1.2</del>	<del>Disconnection for denying access to the meter</del>
<del>clause 5.1.3</del>	<del>Disconnection for emergencies</del>
<del>clause 5.1.4</del>	<del>Disconnection for health and safety reasons</del>
<del>clause 5.1.5</del>	<del>Disconnection for planned maintenance</del>
<del>clause 5.1.6</del>	<del>Disconnection for unauthorised utilisation</del>
<del>clause 5.1.7</del>	<del>Disconnection for refusal to pay refundable advances</del>
<del>clause 5.1.8</del>	<del>When a supplier shall not disconnect</del>
<del>clause 5.2.2</del>	<del>Time and response for reconnection</del>

~~(7) For the purposes of subregulation (6), the reference in clause 5.1.8.1(b) of the AGA Code to an external dispute resolution body is to be read as a reference to the gas industry ombudsman.~~

*Regulation 12 amended: Gazette 14 Jun 2011 p. 2132.]*

### **13. Benefit changes**

(1) In this regulation —

*benefit change* means a change to, or the expiry of, a benefit (such as a price discount) provided under a customer contract to the customer during a period that ends earlier than the date on which the contract will end.

(2) If a customer contract provides for a benefit change, the contract must —

(a) require the retailer to inform the customer, not more than 40 business days and not less than 20 business days before the date of the benefit change, of —

(i) the benefit change; and

(ii) the options for supply available to the customer after the date of the benefit change;

and

(b) describe the way in which the retailer must give that information to the customer.

**13. Refundable advances**

~~(1) A customer contract must include a provision that has the same effect as clause 4.4.6 of the AGA Code.~~

~~Note for this subregulation:~~

~~Clause 4.4.6 of the AGA Code deals with the use of refundable advances by a retail supplier.~~

~~(2) For the purposes of subregulation (1), clause 4.4.6.1 of the AGA Code is to be taken to include an additional paragraph allowing the retail supplier to use a refundable advance and accrued interest (if any) to offset an amount owed by a customer in circumstances where the customer transfers to another retail supplier.~~

~~(3) A customer contract must require any refundable advance held by the retail supplier —~~

~~(a) to be kept in a separate trust account; and~~

~~(b) to be separately identified in the accounting records of the retail supplier.~~

~~(4) A customer contract must require —~~

~~(a) the retail supplier to pay to the customer interest on any refundable advance at the bank bill rate; and~~

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- ~~(b) interest referred to in paragraph (a) to accrue daily and to be capitalised every 90 days unless paid.~~
- ~~(5) In subregulation (4)~~
- ~~**bank bill rate** means the average rate (rounded up to 4 decimal places) for bank accepted bills having a term equal to or nearest to 90 days as displayed on the “BBSW” page of the Reuters Monitor System at or about 10.30 a.m. Eastern Standard Time on the first day of the relevant 90 day period under subregulation (4)(b) or, if the rate is not displayed on that day, the rate displayed on the most recent day before that day.~~

**14. Fees and charges**

- (1) A customer contract must describe the fees and charges payable by the customer under the contract and the circumstances in which those fees and charges are payable.
- (2) Without limiting subregulation (1), a customer contract must —
  - (a) require the customer to pay a charge for gas supplied (the **supply charge**);
  - (b) inform the customer that the supply charge is either a residential charge or a non-residential charge;
  - (c) inform the customer that the supply charge includes —
    - (i) a fixed component; and
    - (ii) a usage component related to the quantity of gas consumed by the customer,and that the fixed component and the usage component are specified in the supply charge published by the ~~retailer;~~ ~~retail supplier;~~
  - (d) require the customer to pay the non-residential charge unless the customer qualifies to pay the residential charge; and
  - (e) describe the circumstances in which the customer qualifies to pay the residential charge.

~~(3) Subregulation (2)(c) does not apply to a customer contract if —~~

~~(a) the customer and the retailer agree that the supply charge is to be determined by a method that does not comply with that paragraph; and~~

~~(b) the method to be used for determining the supply charge is described in the customer contract.~~

~~(4) A customer contract must describe the way in which the retailer —~~

~~(a) publishes its supply charges; and~~

~~(b) gives notice of variations to its supply charges.~~

~~(3) A customer contract must include provisions that have the same effect as the clauses of the AGA Code referred to in the Table to this subregulation, subject to the modification provided for in subregulation (4).~~

**Table**

<b>Clause</b>	<b>Description</b>
clause 4.1.2	Notice of tariffs
clause 4.1.3	Variations

~~(4) For the purposes of subregulation (3), a reference in clause 4.1.2 or 4.1.3 of the AGA Code to tariffs is to be read as a reference to any fees or charges payable by a customer under a customer contract.~~

## **15. Billing**

A customer contract must describe the procedures to be followed by the retailer in relation to the preparation, issue and review of the customer's bills.

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**15. Billing**

~~(1) A customer contract must include provisions that have the same effect as the clauses of the AGA Code referred to in the Table to this subregulation, subject to the modifications provided for in subregulations (2) and (3).~~

**Table**

<b>Clause</b>	<b>Description</b>
<del>clause 4.2.1</del>	<del>When bills are issued</del>
<del>clause 4.2.3</del>	<del>Contents of a bill</del>
<del>clause 4.2.4</del>	<del>The basis of a bill</del>
<del>clause 4.2.10</del>	<del>Calculation of consumption</del>
<del>clause 4.3.2</del>	<del>Methods of making payment</del>

~~(2) For the purposes of subregulation (1), clause 4.2.3.2 of the AGA Code is to be read as if—~~

~~(a) paragraph (a) were amended by inserting after “bills”~~

~~“~~

~~, together with a description of those goods or services~~

~~”;~~

~~(b) paragraph (c) were deleted and the following paragraph were inserted instead—~~

~~“~~

~~(c) where a customer does not direct how the payment is to be allocated, the supplier shall apply the payment—~~

~~(i) unless subparagraph (ii) applies, to the charges referred to in clause 4.2.3.1 before applying any portion of it to such goods or services; or~~



~~—(ii)— if such goods or services include electricity, to the charges referred to in clause 4.2.3.1 and the charges for electricity in equal proportion before applying any portion of it to any other such goods or services.~~

~~—”.~~

~~—(3)— For the purposes of subregulation (1), clause 4.2.3.3 of the AGA Code is to be read as if it were amended to include an additional paragraph requiring a bill to include particulars of the amount of any refundable advance paid by the customer to the retail supplier.~~

## 16. Termination

- (1) A standard form ~~A customer~~ contract must deal with the following matters —
- (a) the circumstances in which the contract may be terminated by the retailer ~~retail supplier~~ or the customer;
  - (b) the procedures for and in relation to termination of the contract; and
  - (c) when termination of the contract takes effect.

(1A) A non-standard contract must inform the customer that the provisions of the contract may be amended without the customer’s consent to the extent that the amendment is required for the contract to remain consistent with a written law or a relevant code.

- (2) Without limiting subregulation (1), a customer contract must authorise the retailer ~~retail supplier~~ to terminate the contract if the customer —
- (a) becomes insolvent;
  - (b) goes into liquidation;
  - (c) commits an act of bankruptcy; or
  - (d) commits a substantial breach of the contract.

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- (3) A customer contract must not authorise the ~~retailer retail supplier~~ to terminate the contract if the customer commits a breach of the contract (other than a substantial breach referred to in subregulation (2)(d)) unless —
- (a) the ~~retailer retail supplier~~ has a right to disconnect supply under the contract, a written law or a relevant code; and
  - (b) the ~~retailer retail supplier~~ has disconnected supply at all supply addresses of the customer covered by the contract.
- (4) Without limiting subregulation (1), a customer contract must include a provision that states that, despite any other provision of the contract, the termination of the contract by the ~~retailer retail supplier~~ or the customer does not have effect until —
- (a) in the case of termination because the customer has entered into another customer contract with the ~~retailer, retail supplier~~, the cooling-off period (if any) for that other contract expires;
  - (b) in the case of termination because the customer has entered into a customer contract with another ~~retailer, retail supplier~~, the customer is transferred to the other ~~retailer retail supplier~~ in accordance with the retail market rules (as defined in section 11ZOA of the Act) for the distribution system concerned; or
  - (c) in the case of termination following disconnection, the customer no longer has any right to reconnection under the provisions of the contract, a written law or a relevant code.
- (5) Without limiting subregulation (1), a customer contract must include provisions that state that if the contract is terminated —
- (a) the ~~retailer retail supplier~~ may arrange for a final meter reading and for disconnection on the day on which the contract ends;

- (b) the ~~retailer retail-supplier~~ may issue a final bill to the customer;
- (c) the ~~retailer retail-supplier~~ may, subject to the provisions of any written law or relevant code, charge the customer a fee for the final meter reading, disconnection and final bill;
- (d) the ~~retailer retail-supplier~~ or gas distribution operator may remove any network equipment at any time after the day on which the contract ends;
- (e) the customer must allow the ~~retailer retail-supplier~~ or gas distribution operator safe and unrestricted access to the supply address for the purpose of removing network equipment; and
- (f) if the customer wants the ~~retailer retail-supplier~~ to again supply gas to the customer, the customer must enter into a new customer contract with the ~~retailer. retail-supplier.~~

*[Regulation 16 amended: Gazette 13 May 2005 p. 2074.]*

#### **17. Amendment of contract**

- (1) ~~A standard form A customer~~ contract must inform the customer that the provisions of the contract may be amended without the customer's consent.

(1A) A non-standard contract must inform the customer that the provisions of the contract may be amended without the customer's consent to the extent that the amendment is required for the contract to remain consistent with a written law or a relevant code.

- (2) A customer contract must describe the process for amendment of the contract including —
  - (a) any requirement for approval of a proposed amendment by a particular person or body; and
  - (b) the way in which an amendment will be published.

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- (3) A customer contract must authorise the customer, if the customer does not agree with an amendment to the contract, to terminate the contract in the way provided for in the contract.

**18. Assignment**

- (1) A customer contract must deal with the assignment of rights and obligations under the contract by the customer and the [retailer](#).  
~~retail supplier.~~
- (2) Without limiting subregulation (1), a customer contract must set out the circumstances in which the customer's rights and obligations under the contract may be assigned without the customer's consent.

**19. Information**

A customer contract must require the [retailer](#) ~~retail supplier~~ to make the following information available to the customer if the customer requests it—

- ~~(a) a copy of the retail supplier's customer service charter;~~
- (b) a copy of these regulations or any relevant code;
- (c) information about fees and charges payable under the contract;
- (d) information about energy efficiency;
- (e) billing data;
- (f) contact details for obtaining information about Government assistance programs or financial counselling services.

[Notes for this regulation:](#)

1. [Regulation 46 sets out standards of service to be met by a retailer in relation to providing copies of these regulations or a relevant code.](#)
2. [Regulation 47 sets out standards of service to be met by a retailer in relation to the provision of billing data.](#)

~~[Notes for this regulation:](#)~~

- ~~1. [Regulation 45 sets out standards of service to be met by a retail supplier in relation to providing copies of its customer service charter.](#)~~

~~2. Regulation 46 sets out standards of service to be met by a retail supplier in relation to providing copies of these regulations or a relevant code.~~

~~3. Regulation 47 sets out standards of service to be met by a retail supplier in relation to the provision of billing data.~~

## 20. Payment difficulties and debt recovery

(1) A customer contract must set out the procedures to be followed by the ~~retailer~~ retail supplier and the customer if the customer has difficulty paying a bill.

~~(2) Without limiting subregulation (1), a customer contract must include provisions that have the same effect as clause 4.3.5.1 of the AGA Code.~~

(3) A customer contract must set out the procedures to be followed by the ~~retailer~~ retail supplier in relation to debt collection.

Note for this regulation:

Regulation 48 sets out standards of service to be met by a retailer in relation to debt collection.

~~Notes for this regulation:~~

~~1. Clause 4.3.5.1 of the AGA Code sets out options to be offered to the customer by the retail supplier if the customer is experiencing payment difficulties.~~

~~2. Regulation 48 sets out standards of service to be met by a retail supplier in relation to debt collection.~~

## 21. Complaints

A customer contract must describe the procedures to be followed by the retailer in responding to a complaint made by the customer.

## 22. Confidentiality

(1) A customer contract must specify the steps that are to be taken by the retailer to ensure that information held by the retailer about the customer is dealt with in a confidential manner.

(2) A customer contract complies with subregulation (1) if the contract specifies —

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- (a) that the retailer's privacy policy sets out the steps that are to be taken by the retailer to ensure that information held by the retailer about the customer is dealt with in a confidential manner; and
- (b) the way in which the customer may obtain a copy of the retailer's privacy policy without charge.

Note for this regulation:

Regulation 49 sets out standards of service to be met by a retailer in relation to dealing with information about a customer's failure to pay a bill.

**21. ~~Dispute resolution~~**

- ~~(1) A customer contract must include provisions about procedures for complaints handling and dispute resolution that have the same effect as the clauses of the AGA Code referred to in the Table to this subregulation, subject to the modifications provided for in subregulation (2).~~

**Table**

<b>Clause</b>	<b>Description</b>
<del>clause 2.5.1</del>	<del>Obligations on a supplier</del>
<del>clause 2.5.2</del>	<del>Rights of a customer</del>

- ~~(2) For the purposes of subregulation (1) —~~
- ~~(a) the reference in clause 2.5.1(c)(ii) of the AGA Code to external dispute resolution bodies is to be read as a reference to the gas industry ombudsman scheme of which the retail supplier is a member; and~~
- ~~(b) the reference in clause 2.5.2(c) of the AGA Code to an external dispute resolution body is to be read as a reference to the gas industry ombudsman.~~

**22. ~~Confidentiality~~**

- ~~A customer contract must specify the steps that are to be taken by the retail supplier to ensure that information held by the retail~~

~~supplier about the customer is dealt with in a confidential manner.~~

~~Note for this regulation:~~

~~Regulation 49 sets out standards of service to be met by a retail supplier in relation to dealing with information about a customer's failure to pay a bill.~~

### 23. Miscellaneous provisions

A customer contract must deal with the following matters —

- (a) the law that governs the contract;
- (b) the effect of any invalid or unenforceable provision on the other provisions of the contract;
- (c) the way in which notice can be given under the contract and when such notice is deemed to be given;
- (d) the use of electronic communication by the [retailer](#) ~~retail supplier~~ when dealing with the customer.

### 24. Compliance with standards of service

A customer contract must require the [retailer](#) ~~retail supplier~~ to comply with the standards of service set out in Part 5.

### 25. No contracting out of Code of Conduct

- (1) A customer contract must not include a provision that purports to exclude, restrict or modify the effect of the Code of Conduct.
- (2) A provision of the kind described in subregulation (1) is of no effect.

### 25A. Effect of last resort supply arrangements

- (1) In this regulation —  
*relevant last resort supply plan* means the last resort supply plan approved or determined under section 11ZAG of the Act for the supply area in which the customer is located.
- (2) A customer contract must explain in general terms the arrangements under which gas will be supplied to the customer

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if the relevant last resort supply plan comes into operation under section 11ZAD of the Act.

- (3) A customer contract must provide that, if the relevant last resort supply plan comes into operation under section 11ZAD of the Act, the contract ceases to have effect immediately before the day on which the customer —
- (a) is transferred to the supplier of last resort under the plan; or
  - (b) if the plan so allows, transfers to another [retailer](#). ~~retail supplier.~~
- (4) A provision for the purposes of subregulation (3) is to be expressed to apply despite any other provision of the contract.
- (5) This regulation does not apply to —
- (a) a standard form contract; or
  - (b) a non-standard contract that is in force immediately before the day on which the *Energy Coordination (Customer Contracts) Amendment Regulations 2005* come into operation<sup>1</sup>,

until the day fixed under section 60(4)(b) of the *Energy Legislation Amendment Act 2003*.

[Regulation 25A inserted: Gazette 13 May 2005 p. 2074-5.]

**25B. Heating value for determining charges for supply of gas**

- (1) In subregulation (2) —
- determined heating value* and *gas day* have the meanings given in the *Gas Standards (Gas Supply and System Safety) Regulations 2000* regulation 17A.
- (2) A person who sells gas under a customer contract that is transported through a distribution system in which gas of different qualities from 2 or more pipelines is commingled must, when using the heating value of the gas for the purpose of —



- (a) determining the charge for the supply of gas on any gas day; or
- (b) determining the charge for the supply of gas on the basis of the average of the heating value on a number of gas days,

use the determined heating value for that day or each of those days.

Penalty: a fine of \$1 000.

*[Regulation 25B inserted: Gazette 27 Jan 2009 p. 178-9.]*

## **Part 3 — Specific requirements for standard form contracts**

### **Division 1 — Requirements for all standard form contracts**

#### **26. Period for which contract has effect**

A standard form contract must be expressed to have effect for a definite period.

#### ~~27. **Cooling-off period for door to door contracts**~~

~~(1) In this regulation —~~

~~*cooling-off period* means the period referred to in subregulation (3);~~

~~*door to door contract* means a standard form contract that is entered into as a result of door to door trading.~~

~~(2) For the purposes of the definition of *door to door contract* in subregulation (1), a contract is entered into as a result of door to door trading if the conditions referred to in clause 13(4) of the Code of Conduct are satisfied in respect of the contract.~~

~~(3) A customer has a right, at his or her discretion, to rescind a door to door contract within the period of 10 days after the contract is entered into and this right must be specified in the contract.~~

~~(4) A door to door contract must prohibit the retail supplier from supplying gas to the customer under the contract during the cooling-off period unless the customer requests supply.~~

~~(5) A door to door contract must require the customer to pay the retail supplier for gas supplied and for any services provided in connection with that supply if —~~

~~(a) at the request of the customer, gas is supplied to the customer during the cooling-off period; and~~

~~(b) the customer exercises his or her right to rescind the contract during that period.~~

**28. Retailer’s obligations in relation to supply**

A standard form contract must specify the obligations of the retailer with respect to the supply of gas.

~~**28. Retail supplier’s obligations in relation to supply**~~

~~(1) A standard form contract must specify the obligations of the retail supplier with respect to the supply of gas.~~

~~(2) Without limiting subregulation (1), a standard form contract must include provisions that have the same effect as the clauses of the AGA Code referred to in the Table to this subregulation.~~

**Table**

<b>Clause</b>	<b>Description</b>
clause 3.1.1	Supply and metering equipment
clause 3.1.2	Existing connections
clause 3.1.3	New connections

**29. Customer’s obligation to pay for gas**

A standard form contract must require the customer to pay for gas supplied under the contract.

**30. Termination of contract by customer**

Without limiting regulation 16(1), a standard form contract must authorise the customer to terminate the contract at any time by giving notice to the retailer ~~retail supplier~~ not less than 3 business days before the day on which the customer wants the contract to end.

**31. Equipment ownership and responsibility**

A standard form contract must deal with ownership of, responsibility for, and rights and obligations in relation to, equipment used for or in connection with supply under the contract.

**32. Meter testing**

A standard form contract must inform the customer —

- (a) that the customer can ask the ~~retailer~~ ~~retail supplier~~ to test the meter; and
- (b) of the circumstances in which the customer is required to pay a fee for the test.

**33. Access to supply address**

- (1) A standard form contract must require the customer to provide safe and unrestricted access to the meter at the supply address.
- (2) A standard form contract must require the customer to provide safe and unrestricted access to the gas installation (as defined in section 4 of the *Gas Standards Act 1972*) at the supply address for the purposes of any inspection authorised by law.

~~(3) A standard form contract must include provisions that have the same effect as clause 3.5.2 of the AGA Code.~~

~~Note for this regulation:~~

~~Clause 3.5.2 of the AGA Code sets out notice and identification requirements to be observed when access to a supply address is sought.~~

**34. Customer entering supply address**

- (1) A standard form contract must, in relation to a new gas connection, specify the day and time from when the customer will be charged for gas supplied at the supply address.
- (2) A standard form contract must, in relation to an existing gas connection, specify the method used to determine the quantity of gas supplied to the customer at the supply address if a final meter reading is not carried out on the day that the previous customer left the supply address.

**35. Customer leaving supply address**

- (1) A standard form contract must include provisions that deal with the following matters —
  - (a) a requirement for notice to be given by the customer to the ~~retailer~~ ~~retail-supplier~~ before the customer leaves the supply address;
  - (b) the method used to determine the final charge payable by the customer for gas supplied at the supply address and any fee payable by the customer in respect of that determination; and
  - (c) the nature and extent of the customer's obligation to pay for gas supplied at the supply address.

~~(2) The provisions referred to in subregulation (1) must be consistent with clause 4.3.10 of the AGA Code.~~

- (3) Without limiting subregulation (1)(c), a standard form contract must include a provision to the effect that if the customer (the *old customer*) leaves the supply address and another customer (the *new customer*) enters into a customer contract (the *new contract*) with the ~~retailer~~ ~~retail-supplier~~ for that supply address, the old customer is not required to pay for any gas supplied at that supply address after the time when the new customer's obligation to pay for gas supplied under the new contract takes effect.

**36. Matters beyond the control of customer or ~~retailer~~ ~~retail-supplier~~**

A standard form contract must deal with the respective rights and obligations of the customer and the ~~retailer~~ ~~retail-supplier~~ if something happens that is beyond the control of the customer or the ~~retailer~~ ~~retail-supplier~~.

**37. Refundable advances**

~~A standard form contract must set out~~

- ~~(a) the circumstances in which the retail supplier may ask the customer to pay a refundable advance;~~
- ~~(b) the method used to calculate the amount of any refundable advance; and~~
- ~~(c) the maximum amount that the retail supplier may ask the customer to pay as a refundable advance.~~

**38. Supply charges**

Without limiting regulation 14(1), a standard form contract must specify that the supply charge (as defined in regulation 14(2)(a)) conforms with the requirements of the *Energy Coordination (Gas Tariffs) Regulations 2000* in relation to capped tariffs.

**38A. Provisions relating to last resort supply**

- (1) In this regulation —

*last resort supply fee* has the meaning given to that term in regulation 3 of the *Energy Coordination (Last Resort Supply) Regulations 2005*;

*last resort supply plan* means a last resort supply plan approved or determined under section 11ZAG of the Act;

*transferred customer* means a customer who is transferred to the [retailer](#) ~~retail supplier~~ as the supplier of last resort under a last resort supply plan.

- (2) This regulation applies to the standard form contract of a [retailer](#) ~~retail supplier~~ if the [retailer](#) ~~retail supplier~~ is the supplier of last resort for a supply area under Part 2A Division 6A of the Act.
- (3) Without limiting regulation 14(1), if the last resort supply plan for the supply area makes provision for a last resort supply fee, the standard form contract of the [retailer](#) ~~retail supplier~~ must —
- (a) require a transferred customer to pay the last resort supply fee to the [retailer](#); ~~retail supplier~~;

- (b) specify when the last resort supply fee is payable; and
  - (c) prohibit a transferred customer from terminating the contract if the last resort supply fee has not been paid.
- (4) The standard form contract of the ~~retailer retail supplier~~ must require the ~~retailer retail~~ supplier to supply gas to a transferred customer for a period of not less than 3 months after the day on which the transfer occurs unless the transferred customer terminates the contract.
- (5) The standard form contract of the ~~retailer retail supplier~~ must not authorise the ~~retailer retail supplier~~ to terminate the contract because of anything done or omitted to be done by a transferred customer before transfer to the ~~retailer. retail supplier.~~
- (6) A provision for the purposes of subregulation (3)(c) or (4) is to be expressed to apply despite any other provision of the contract.

*[Regulation 38A inserted: Gazette 13 May 2005 p. 2075-6.]*

## **Division 2 — Security deposit requirements for certain standard form contracts**

### **38B. Application**

This Division does not apply to a customer contract entered into by a residential customer.

### **38C. Security deposits may be required from customers**

- (1) A customer contract must state whether or not the customer is required to pay a security deposit to the retailer.
- (2) Subject to subregulations (3) and (5), a customer contract may require a customer to pay a security deposit to the retailer —
  - (a) at the time the customer asks the retailer to supply gas to the customer under a customer contract; and
  - (b) at any time during the term of the customer contract.

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(3) A customer contract that requires a customer to pay a security deposit must state that the customer is required to do so only if —

(a) the customer owes an amount to the retailer in relation to supply at any premises, unless the customer has disputed the bill relating to that amount and the bill is subject to —

(i) a review by the retailer; or

(ii) a complaint to the gas industry ombudsman;

or

(b) within 2 years before entering into the contract, the customer has —

(i) fraudulently obtained supply; or

(ii) consumed gas intentionally and unlawfully;

or

(c) the retailer reasonably decides that the customer has an unsatisfactory credit history or an unsatisfactory history relating to paying for gas supplied to the customer.

(4) Subregulation (5) applies to a customer contract that requires a customer to pay a security deposit because of the retailer's reasonable decision referred to in subregulation (3)(c).

(5) The customer contract must state that the retailer is required to inform the customer of —

(a) the retailer's decision that the customer has an unsatisfactory credit history or an unsatisfactory history relating to paying for gas supplied to the customer, and the reasons for that decision; and

(b) the complaints handling process and gas industry ombudsman scheme referred to in regulation 50.

**38D. Amount of security deposit**

A customer contract that requires a customer to pay a security deposit must require the retailer to ensure that the amount of the



security deposit is not greater than 37.5% of the customer's estimated bills over a 12 month period, based on —

- (a) billing data relating to the customer; or
- (b) the average consumption of gas by a comparable customer over a comparable 12 month period.

**38E. Treatment of security deposit**

(1) In this regulation —

*bank bill swap rate* means —

- (a) the Australian Stock Exchange Bank Bill Swap Rate (BBSW) having a term equal to or nearest to 90 days as published on the first day of the relevant 90 day period referred to in subregulation (3); or
- (b) if the rate referred to in paragraph (a) is not published on that day, the rate published on the most recent day before that day.

(2) A customer contract that requires a customer to pay a security deposit must require the retailer —

- (a) to keep security deposits paid to the retailer in a separate trust account; and
- (b) to identify those security deposits separately in the retailer's accounting records.

(3) A customer contract that requires a customer to pay a security deposit must require the retailer to pay interest to the customer on the security deposit, at the bank bill swap rate, that accrues daily and is capitalised every 90 days unless paid.

**38F. Use of security deposit**

(1) In this regulation —

*security deposit* includes any interest accrued on the security deposit, as described in regulation 38E(3).

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(2) A customer contract that requires a customer to pay a security deposit must state that the retailer may apply the security deposit in full or partial satisfaction of amounts owed by the customer to the retailer only if —

(a) the retailer disconnects supply for non-payment of a bill and the customer no longer has any right to reconnection under the customer contract; or

(b) any amount owed by the customer relates to a final bill issued to the customer.

(3) A customer contract that requires a customer to pay a security deposit must require the retailer, within 10 business days after applying the security deposit as described in subregulation (2) —

(a) to provide the customer with a written statement of how the security deposit was applied; and

(b) to repay to the customer any amount of the security deposit that was not used in that application.

**38G. Obligation to repay security deposit**

(1) A customer contract that requires a customer to pay a security deposit must require the retailer to repay to the customer, in accordance with the customer's reasonable instructions and subject to the contract's provisions described in regulation 38F, the amount of the security deposit, including any interest accrued as described in regulation 38E(3), within the period described in subregulation (2).

(2) The customer contract must state that the security deposit is required to be repaid within 10 business days after —

(a) the customer completes 2 years of payments for supply by the date specified in the relevant bills; or

(b) the customer leaves the supply address; or

(c) the retailer disconnects supply at the supply address at the request of the customer; or

(d) the customer transfers to another retailer.

(3) The customer contract must state that, if the customer does not give reasonable instructions for the repayment of the security deposit and any accrued interest, the retailer is required to credit the amount to be repaid —

(a) if subregulation (2)(a) applies to the repayment — to the customer's next bill; or

(b) if subregulation (2)(b), (c) or (d) applies to the repayment — to the customer's final bill.

**38H. Failure to pay security deposit**

A customer contract that requires a customer to pay a security deposit must state that, if the customer fails to pay the security deposit, in whole or in part, the retailer may, subject to the conditions of its trading licence and the requirements of the contract referred to in regulation 12 —

(a) disconnect supply or cause disconnection to occur; or

(b) refuse to reconnect supply.

**38I. Permission for retailer to carry out credit checks**

(1) This regulation applies if a customer contract requires a customer to pay a security deposit during the term of the customer contract.

(2) The customer contract must require the customer to provide the retailer, if and when requested by the retailer to do so, with —

(a) permission to investigate the customer's credit history; and

(b) any information held by the customer about the customer's credit history.

## **Part 4 — Specific requirements for non-standard contracts**

### **Division 1 — Requirements for all non-standard contracts**

#### **39. Period for which contract has effect**

A non-standard contract may be expressed to have effect for a definite period or an indefinite period.

#### **40. Cooling-off period for non-standard contracts**

(1) In this regulation —

*cooling-off period* means the period referred to in subregulation (2).

(2) A customer has a right, at his or her discretion, to rescind a non-standard contract within the period of 10 business days ~~10 days~~ after the contract is entered into and this right must be specified in the contract.

(3) A non-standard contract must prohibit the retailer ~~retail-supplier~~ from supplying gas to the customer under the contract during the cooling-off period unless the customer requests supply.

(4) A non-standard contract must require the customer to pay the retailer ~~retail-supplier~~ for gas supplied and for any services provided in connection with that supply if —

- (a) at the request of the customer, gas is supplied to the customer during the cooling-off period; and
- (b) the customer exercises his or her right to rescind the contract during that period.

#### **41. Termination of contract by customer**

(1) Without limiting regulation 16(1), a non-standard contract (other than a fixed term contract) must authorise the customer to terminate the contract at any time by giving notice to the retailer

- ~~retail supplier~~ not less than 3 business days before the day on which the customer wants the contract to end.
- (2) A fixed term contract must authorise the customer to terminate the contract at any time by giving notice to the ~~retailer~~ ~~retail supplier~~ not less than 20 business days before the day on which the customer wants the contract to end.
- (3) Subject to the provisions of any other written law or a relevant code, a fixed term contract may allow the ~~retailer~~ ~~retail supplier~~ to impose an additional charge if the contract is terminated by the customer.
- (4) If a fixed term contract includes a provision referred to in subregulation (3), the contract must specify the amount of the charge or the method of calculating the charge.

**42. Amendment of contract**

Without limiting regulation 17, a non-standard contract must require the ~~retailer~~ ~~retail supplier~~ to notify the customer of any amendment to the contract.

**43. Continuation of contract after expiry**

A fixed term contract must provide for the continuation of the contract after expiry on the terms and conditions set out in the ~~notification~~ ~~notice~~ referred to in regulation 44(1) unless the customer has entered into another customer contract for the supply address to which the fixed term contract applies.

**44. Information relating to expiry of fixed term contract**

- (1) A fixed term contract must require the ~~retailer to notify the customer — retail supplier to inform the customer, by notice in writing —~~
- (a) that the contract is due to expire on a day specified in the ~~notification; and~~ ~~notice;~~
- (b) of the options for supply available to the customer after expiry; and

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(c) of the terms and conditions that will apply after expiry unless the customer exercises one of the options referred to in paragraph (b); and ~~paragraph (b)~~.

(d) of the way in which the retailer must give the notification referred to in this subregulation to the customer.

(2) Subject to subregulations (3) and (4), the contract must require the notification ~~subregulation (3), the contract must require the notice~~ referred to in subregulation (1) to be given not more than 40 business days and not less than 20 business days ~~2 months and not less than one month~~ before the day on which the contract is due to expire.

(3) If the term of the contract is less than one month, the contract must require the notification ~~notice~~ referred to in subregulation (1) to be given at the commencement of the term.

(4) The contract (the *current contract*) must state that the retailer is not required to give the notification referred to in subregulation (1) if the customer —

(a) has already entered into a new customer contract with the retailer for the supply address to which the current contract applies; or

(b) has given instructions to the retailer as to which of the options for supply referred to in subregulation (1)(b) the customer requires on the expiry of the current contract.

**Division 2 — Security deposit requirements for certain non-standard contracts**

**44A. Application**

Regulation 44B does not apply to a customer contract entered into by a residential customer.

**44B. Security deposits may be required from customers**

- (1) A customer contract must state whether or not the customer is required to pay a security deposit to the retailer.
- (2) A customer contract that requires a customer to pay a security deposit must state —

  - (a) the method used to calculate the amount of any security deposit; and
  - (b) the maximum amount that the retailer may require the customer to pay as a security deposit; and
  - (c) the circumstances in which the retailer may apply the security deposit in satisfaction of amounts owed by the customer to the retailer; and
  - (d) the circumstances in which the retailer must repay the security deposit to the customer.
- (3) For the purposes of this regulation, regulations 38C, 38E(2), 38H and 38I apply as if any reference in those provisions to a customer contract included a reference to a non-standard contract.

## Part 5 — Standards of service

### ~~45. Customer to be provided with copy of customer service charter~~

- ~~(1) A retail supplier must, if requested to do so, provide a customer with a copy of its customer service charter free of charge within 2 business days after receiving the request.~~
- ~~(2) A retail supplier must from time to time include on a customer's bill a statement that the customer is entitled to a copy of its customer service charter free of charge.~~

### 46. Customer to be provided with copy of regulations or relevant code

- (1) A [retailer](#) ~~retail supplier~~ must, if requested to do so, provide a customer with a copy of these regulations or a relevant code as soon as practicable after receiving the request.
- (2) A [retailer](#) ~~retail supplier~~ may require a customer to pay a reasonable charge for the provision of a copy of these regulations or a relevant code under subregulation (1).
- (3) In subregulation (2) —  
**reasonable charge** means an amount that covers the reasonable costs of providing the copy.
- (4) A [retailer](#) ~~retail supplier~~ must ensure that copies of these regulations and any relevant code are available for inspection free of charge at the [retailer's](#) ~~retail supplier's~~ principal office or place of business in the State.

### 47. Billing data

- (1) In this regulation —  
**current supplier** means a [retailer](#) ~~retail supplier~~ who currently supplies gas to the customer concerned;  
**former supplier** means a [retailer](#) ~~retail supplier~~ who used to supply gas to the customer concerned;



**prescribed time** means 10 business days after the date of the request or any longer period agreed to by the customer and the ~~retailer;~~ ~~retail-supplier;~~

**reasonable charge** means an amount that covers the reasonable costs of providing the billing data.

- (2) A current supplier —
- (a) must use reasonable endeavours to comply, within the prescribed time, with a request by a customer for billing data held by the current supplier (the **relevant request**); and
  - (b) subject to subregulation (4), may require the customer to pay a reasonable charge for the provision of the billing data if —
    - (i) the customer has requested the current supplier to provide billing data in the period of 12 months immediately before the date of the relevant request; or
    - (ii) the period to which the billing data relates is more than 2 years before the date of the relevant request.
- (3) A former supplier —
- (a) must use reasonable endeavours to comply, within the prescribed time, with a request by a customer for billing data held by the former supplier if the period to which the billing data relates is not more than 2 years before the date of the request; and
  - (b) subject to subregulation (4), may require the customer to pay a reasonable charge for the provision of billing data.
- (4) A ~~retailer~~ ~~retail-supplier~~ must not impose a charge for the provision of billing data if the billing data is required by the customer for the purposes of or in connection with a complaint made by the customer to the gas industry ombudsman.

*[Regulation 47 amended: Gazette 2 Nov 2004 p. 4961.]*

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**48. Debt collection**

A ~~retailer retail-supplier~~ must not commence legal proceedings for the recovery of an amount owed to it by a customer if the customer has entered into a payment arrangement in respect of that amount with the ~~retailer retail-supplier~~ and is complying with the terms of that arrangement.

**49. Default listing**

- (1) In this regulation —  
*default* means failure by a customer to pay a charge or any other amount specified in a bill.
- (2) A ~~retailer retail-supplier~~ may only provide information about a default to a credit reporting agency if the default relates to a bill issued by the ~~retailer retail-supplier~~.
- (3) If the customer remedies the default the ~~retailer retail-supplier~~ must inform the credit reporting agency immediately of that fact.
- (4) If the customer —
  - (a) remedies the default or enters into an arrangement with the ~~retailer retail-supplier~~ to remedy the default; and
  - (b) demonstrates to the ~~retailer retail-supplier~~ that extenuating circumstances led to the default,the ~~retailer retail-supplier~~ must request the credit reporting agency to remove the information about the default from the customer's record.
- (5) A ~~retailer retail-supplier~~ must not provide information about a default to a credit reporting agency if —
  - (a) the customer has made a complaint in good faith relating to the default and the complaint has not been resolved; or
  - (b) the default relates to a portion of the bill that the customer has asked the ~~retailer retail-supplier~~ to review.

**50. Disconnection warning to include information on dispute resolution**

A ~~retailer~~ ~~retail supplier~~ must include information about —

- (a) its complaints handling process; and
- (b) the gas industry ombudsman scheme of which it is a member,

on any disconnection warning (as defined in regulation 12(4)(b)) given to a customer.

Clerk of the Executive Council