



New South Wales

# National Energy Retail Law (Adoption) Amendment (Charges) Regulation 2017

under the

National Energy Retail Law (Adoption) Act 2012

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *National Energy Retail Law (Adoption) Act 2012*.

DONALD HARWIN, MLC  
Minister for Energy and Utilities

## Explanatory note

The object of this Regulation is to modify the application of the *National Energy Retail Rules* in New South Wales as follows:

- (a) to prohibit energy retailers from charging a customer who requests a paper bill or who pays the customer's bill in person at an Australia Post outlet,
- (b) to prohibit a market retail contract from providing for a payment of an early termination charge or a charge payable where a customer terminates a fixed benefit period early and to apply the prohibition to existing unpaid charges,
- (c) to exclude from that prohibition the energy retailer's reasonable costs of installing certain energy devices and associated equipment,
- (d) to exclude from the prohibition on charges for early termination of a fixed benefit period charges where the benefit includes a fixed tariff or a fixed charge, the contract sets out how the charge is to be calculated and the charge is a reasonable estimate of the retailer's costs.

This Regulation is made under the *National Energy Retail Law (Adoption) Act 2012*, including section 12 (the general regulation-making power).

## **National Energy Retail Law (Adoption) Amendment (Charges) Regulation 2017**

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National Energy Retail Law (Adoption) Act 2012

### **1 Name of Regulation**

This Regulation is the *National Energy Retail Law (Adoption) Amendment (Charges) Regulation 2017*.

### **2 Commencement**

This Regulation commences on 1 January 2018 and is required to be published on the NSW legislation website.

## **Schedule 1      Amendment of National Energy Retail Law (Adoption) Regulation 2013**

### **[1]    Clauses 9B and 9C**

Omit the clauses. Insert instead:

#### **9B    Charges for paper bills or paying bills at Australia Post prohibited**

The *National Energy Retail Rules* are modified by inserting after rule 35 the following rule:

##### **35A    Charges for issue of paper bills or paying bills at Australia Post prohibited**

A retailer must not impose a charge under a customer retail contract in respect of:

- (a) the retailer issuing a small customer with a paper bill (instead of, or in addition to, issuing the customer with a bill electronically), or
- (b) a small customer paying a bill in person at an Australia Post outlet.

#### **9C    Early termination charges**

The *National Energy Retail Rules* are modified by omitting rule 49A and inserting instead:

##### **49A    Early termination charges prohibited**

- (1) A term or condition of a market retail contract has no effect to the extent that it provides for payment of an early termination charge (however described) or a charge that is payable where a customer terminates a fixed benefit period early, except as provided by this rule.
- (2) Subrule (1) does not prevent a retailer from recovering from a customer who terminates a fixed term retail contract or fixed benefit period early the reasonable costs incurred by the retailer for the installation of any of the following at the customer's premises:
  - (a) a solar photovoltaic system,
  - (b) a battery storage system,
  - (c) a digital meter,
  - (d) any associated equipment.
- (3) Subrule (1) does not prevent a retailer from recovering a charge payable where a customer terminates a fixed benefit period early (even if this coincides with the termination of the market retail contract) if:
  - (a) the benefit to the customer during the period includes a fixed tariff or a fixed charge for energy provided under the contract, and
  - (b) the contract includes details of the amount or manner of calculation of the charge, and
  - (c) the charge is a reasonable estimate of the costs to the retailer resulting from the early termination.

- (4) For the purposes of subrule (3) (c), the costs to the retailer are the reasonable costs incurred or to be incurred by the retailer, and do not include costs based on lost supply or lost profits.
- (5) This rule is a minimum requirement that is to apply in relation to small customers who purchase energy under a market retail contract.

**[2] Part 6 Savings and transitional provisions**

Omit Division 6.

**[3] Part 6, Division 8**

Insert after Division 7 of Part 6:

**Division 8 Provisions consequent on National Energy Retail Law  
(Adoption) Amendment (Charges) Regulation 2017**

**53 Application of amendments**

- (1) Clause 9B, as substituted by the amending Regulation, does not apply in respect of a charge imposed on a customer under a customer retail contract before the commencement of the amending Regulation.
- (2) Clause 9C, as substituted by the amending Regulation, extends to a charge that was incurred by a customer under a market retail contract, and not paid, before the commencement of the amending Regulation.
- (3) In this clause, ***amending Regulation*** means the *National Energy Retail Law (Adoption) Amendment (Charges) Regulation 2017*.