

Electricity Industry Participation Code Amendment (Trader Default) 2014

Pursuant to section 38 of the Electricity Industry Act 2010, and having complied with section 39 of that Act, I make the following amendments to the Electricity Industry Participation Code 2010.

At Wellington on the 23rd day of December 2014



Dr Thomas Brent Layton
Chairperson
Electricity Authority

Certified in order for signature:



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19 December 2014



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19 December 2014

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Amendment

1 Title

This is the Electricity Industry Participation Code Amendment (Trader Default) 2014.

2 Commencement

- (1) This amendment comes into force on 28 February 2015, except clauses 6(3), 12(4), 13, and 15.
- (2) Clauses 6(3), 12(4), 13, and 15 come into force on 28 August 2015.

3 Code amended

This amendment amends the Electricity Industry Participation Code 2010.

4 Clause 1.1 amended (Interpretation)

In clause 1.1(1), definition of **retailer**, replace "8, and 10 to 15" with "8, 10, and 12 to 15".

5 Clause 11.1 amended (Contents of this Part)

In clause 11.1(e), replace "**retailer**" with "**trader**".

6 Clause 11.15B amended (Retailer contracts with customers must permit assignment by Authority)

- (1) In the heading to clause 11.15B,—
 - (a) replace "**Retailer**" with "**Trader**"; and
 - (b) after "**customers**", insert "**to**".
- (2) In clause 11.15B(1),—
 - (a) replace "**retailer**" with "**trader**" in each place; and
 - (b) in paragraph (a), after "commits an **event of default**", insert "under paragraph (a) or (b) or (f) or (h) of clause 14.55".
- (3) In clause 11.15B, revoke subclause (3).

7 Clause 11.15C amended (Process for retailer events of default)

- (1) In the heading to clause 11.15C, replace "**retailer**" with "**trader**".
- (2) In clause 11.15C(1), replace "**retailer**" with "**trader**".

8 Heading to Schedule 11.5 amended

In the heading to Schedule 11.5, replace "**retailer**" with "**trader**".

9 Clause 1 of Schedule 11.5 amended

In clause 1 of Schedule 11.5, replace "when a **retailer** commits" with "when the **Authority** is satisfied that a **trader** has committed".

10 Clause 2 of Schedule 11.5 amended

- (1) In the heading to clause 2 of Schedule 11.5, replace "**retailer**" with "**trader**".

- (2) In clause 2(1) of Schedule 11.5,—
 - (a) replace "If a **retailer** ("defaulting **retailer**") commits" with "If the **Authority** is satisfied that a **trader** ("defaulting **trader**") has committed"; and
 - (b) replace "**retailer**" with "**trader**" in each place.
- (3) In clause 2(2) of Schedule 11.5,—
 - (a) replace "**retailer**" with "**trader**"; and
 - (b) replace "**retailer's**" with "**trader's**".
- (4) In clause 2(3) of Schedule 11.5, replace "**retailer**" with "**trader**".

11 Clause 3 of Schedule 11.5 amended

- (1) In clause 3(1) of Schedule 11.5,—
 - (a) replace "**retailer**" with "**trader**"; and
 - (b) replace "**retailer's**" with "**trader's**".
- (2) In clause 3(3) of Schedule 11.5, replace "**retailer**" with "**trader**".

12 Clause 4 of Schedule 11.5 amended

- (1) In the heading to clause 4 of Schedule 11.5, after "**Failure**", insert "**by defaulting trader**".
- (2) In clause 4(1) of Schedule 11.5,—
 - (a) replace "7 days have elapsed since the defaulting **retailer** was given notice" with "7 days have elapsed since the **Authority** gave notice to the defaulting **trader**"; and
 - (b) replace "**retailer**" with "**trader**" in each place.
- (3) In clause 4(2) of Schedule 11.5,—
 - (a) in paragraph (a), replace "**retailer**" with "**trader**"; and
 - (b) replace paragraph (b) with:
 - "(b) attempt to advise **customers** of the defaulting **trader** that—
 - "(i) the defaulting **trader** has committed an **event of default**; and
 - "(ii) the **customer** should enter into a contract for the purchase of **electricity** with another **trader** by the date that is 14 days after the day on which the **Authority** gave notice to the defaulting **trader** under clause 2(1); and
 - "(iii) if the **customer** fails to enter into a contract with another **trader** by that date, the **Authority** may assign the defaulting **trader's** rights and obligations under the **customer's** contract with the defaulting **trader** to another **trader** under clause 5."
- (4) In clause 4 of Schedule 11.5, revoke subclauses (3) and (4).

13 New clauses 4A and 4B of Schedule 11.5 inserted

After clause 4 of Schedule 11.5, insert:

"4A Trader to provide information about NSPs and ICPs at which it cannot trade

- "(1) If the **Authority** gives a notice to a **trader** under clause 4, the **Authority** must notify each **trader** (except the defaulting **trader**) that it must provide the information specified in subclause (2) to the **registry manager** by no later than 1600 on the **business day** following the day on which the notice under this subclause was given.
- "(2) The information that a **trader** must provide to the **registry manager** is—
 - "(a) the **NSPs** at which the **trader** cannot trade because it does not have an arrangement with the relevant **distributor** on whose network the **NSPs** are located to trade at the **NSP**; and

- "(b) the **ICPs** at which the **trader** cannot trade for any of the following reasons:
 - "(i) the type of each **meter** at the **ICPs** (for example, **half hour**, non **half hour**, or **prepay**):
 - "(ii) the **price category code** assigned to the **ICPs**:
 - "(iii) the **metering installation** category of the **metering installation** at the **ICPs**:
 - "(iv) the **installation type** code assigned to the **ICPs**; and
- "(c) the reasons, being 1 or more reasons specified in paragraph (a) and (b), for the **trader** being unable to trade at the **NSPs** or **ICPs**.
- "(3) A **trader** must comply with a notice given to it under subclause (1).

"4B Authority may direct registry to take certain actions

- "(1) If the **Authority** gives notice to a **trader** under clause 4, the **Authority** may, by notice to the **registry**, direct the **registry** not to—
 - "(a) complete the switch of any **ICP** to the defaulting **trader**; or
 - "(b) accept a request from the defaulting **trader** to withdraw a switch under clauses 17 and 18 of Schedule 11.3.
- "(2) If the **Authority** gives notice under subclause (1), the **registry** must not—
 - "(a) complete the switch of any **ICP** to the defaulting **trader**; or
 - "(b) accept a request from the defaulting **trader** to withdraw a switch under clauses 17 and 18 of Schedule 11.3."

14 Clause 5 of Schedule 11.5 amended

- (1) In the heading to clause 5 of Schedule 11.5, after "**contracts**", insert "**and ICPs**".
- (2) In clause 5(1) of Schedule 11.5,—
 - (a) replace "**retailer**" with "**trader**" in each place; and
 - (b) in paragraph (b), before "is still recorded in the **registry**", insert "the defaulting **trader**".
- (3) In clause 5(2) to (8) of Schedule 11.5, replace "**retailer**" with "**trader**" in each place.

15 New clause 5A of Schedule 11.5 inserted

After clause 5 of Schedule 11.5, insert:

"5A Effect of assignment

If the **Authority** assigns an **ICP** to a recipient **trader** under clause 5, and at the time of the assignment the recipient **trader** does not comply with clause 10.24(a) in relation to the **ICP**, the recipient **trader** is excused from complying with that clause for the first 3 months after the assignment."

16 Clause 6 of Schedule 11.5 amended

- (1) In the heading to clause 6 of Schedule 11.5, replace "**retailer**" with "**trader**".
- (2) In clause 6 of Schedule 11.5, replace "**retailer**" with "**trader**" in each place.

17 Clause 7 of Schedule 11.5 amended

In clause 7 of Schedule 11.5, replace "**retailer**" with "**trader**" in each place.

18 Clause 8 of Schedule 11.5 amended

In clause 8(2) of Schedule 11.5, replace "**retailer**" with "**trader**".

19 Clause 14.55 amended (Definition of an event of default)

In clause 14.55(h),—

- (a) replace "**retailer's**" with "**trader's**"; and
 - (b) replace "**retailer**" with "**trader**" in each place.
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Explanatory Note

This note is not part of the amendment, but is intended to indicate its general effect.

This amendment to the Electricity Industry Participation Code 2010 ("Code") comes into force on 28 February 2015, except clauses 6(3), 12(4), 13, and 15, which come into force on 28 August 2015.

The amendment amends clause 14.55(h) so that it refers to a "trader's use-of-system agreement" rather than a "retailer's use-of-system agreement". That reflects that traders rather than retailers have use-of-system agreements with distributors.

In addition, the amendment amends the retailer default provisions in Part 11 of the Code by replacing all references to "retailers" with references to "traders". The retailer default provisions in Schedule 11.5 are triggered only by an event of default. The change reflects the position that only a trader can commit an event of default under the Code.

The amendment also:

- (a) inserts a new clause 4A of Schedule 11.5, which will require traders to provide information about NSPs and ICPs at which they cannot trade for specified reasons, if requested to do so by the Authority after a trader commits an event of default:
- (b) inserts a new clause 5A of Schedule 11.5, which provides that if a trader is assigned ICPs of a defaulting trader, the trader assigned the ICPs does not, for the first 3 months after the assignment, breach the requirement in clause 10.24(a) to ensure that there is at least 1 metering installation at each ICP. This will enable traders that are assigned ICPs to make the necessary arrangements to comply with that clause:
- (c) makes a number of minor drafting improvements to clauses in Part 11.

Date of notification in the *Gazette*: 8 January 2015