

Electricity Industry Participation Code Amendment (Improving Trader Default Process) 2020


Under section 38 and 39(3)(a) 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 6th day of August 2020



Dr Thomas Brent Layton
Chair
Electricity Authority

Certified in order for signature:



Thomas Hannah
Senior Legal Counsel
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5 August 2020

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Amendment

1 Title

This is the Electricity Industry Participation Code Amendment (Improving Trader Default Process) 2020.

2 Commencement

This amendment comes into force 28 days after the date of the Gazette Notice.

3 Code amended

This amendment amends the Electricity Industry Participation Code 2010.

4 Schedule 11.5, clause 3 (Authority may require distributor and registry manager to provide information)

- (1) Replace the heading to Schedule 11.5, clause 3 with “**Authority may require distributor, registry manager, and metering equipment provider to provide information**”.
- (2) In Schedule 11.5, clause 3(1)—
 - (a) after “information”, where first used, insert “specified in the notice,”; and
 - (b) delete “specified in the notice (if the **distributor** holds the information),”.
- (3) In Schedule 11.5, clause 3(2)—
 - (a) replace “requested by” with “to”; and
 - (b) delete “under subclause (1)”.
- (4) Replace Schedule 11.5, clause 3(3) with “The **Authority** may, by notice in writing to the **registry manager**, require the **registry manager** to provide to the **Authority** the information, specified in the notice, about **ICPs** for which a defaulting **trader** is recorded in the **registry** as being responsible, within the period specified in the notice.”
- (5) Replace Schedule 11.5, clause 3(4) with “If the **registry manager** holds the information, the **registry manager** must provide the information to the **Authority** within the time specified by the **Authority**.”.
- (6) After Schedule 11.5, clause 3(4) insert:
 - “(5) The **Authority** may, by notice in writing to a **metering equipment provider** who is recorded in the **registry** as the **metering equipment provider** for an **ICP** for which a defaulting **trader** is responsible, require the **metering equipment provider** to provide to the **Authority** the information, specified in the notice, about the **ICPs** for which the defaulting **trader** is recorded in the **registry** as being responsible, within the period specified in the notice.
 - “(6) If the **metering equipment provider** holds the information, the **metering equipment provider** must provide the information to the **Authority** within the time specified by the **Authority**.”

5 Schedule 11.5, clause 4 (Failure by defaulting trader to remedy event of default)

- (1) In Schedule 11.5, clause 4 (1)(a), after “7 days” insert “or more”;
- (2) Replace Schedule 11.5, clause 4 (2)(b) with:
 - “(b) unless the **Authority** considers there is good reason not to, attempt to advise customers of the defaulting **trader** that the defaulting **trader** has committed an **event of default** and one or more of the following:
 - (i) *[Revoked]*

- (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 written notice to the defaulting **trader** under clause 2(1):
- (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:
- (iv) any other information the **Authority** considers appropriate.”

6 Schedule 11.5, clause 4B (Authority may assign contracts and ICPs)

Replace Schedule 11.5, clause 4B with:

“4B Authority may direct registry manager not to process certain ICP switching activities

- (1) If the **Authority** gives written notice to a **trader** under clause 2, the **Authority** may, by written notice to the **registry manager**, direct the **registry manager** not to—
 - (a) process the initiation or completion of the switch of any **ICP** to the defaulting **trader**; or
 - (b) process a switch withdrawal request under clauses 17 and 18 of Schedule 11.3 if processing the switch withdrawal request would mean the defaulting **trader** retained responsibility for the **ICP** to which the switch withdrawal request applies.
- (2) If the **Authority** gives written notice under subclause (1), the **registry manager** must comply with the notice.”

7 Schedule 11.5, clause 5 (Authority may assign contracts and ICPs)

- (1) After Schedule 11.5, clause 5(2) insert:

“(2A) When determining an assignment under subclause (2), the **Authority** may do 1 or both of the following:

- (a) exercise its discretion to determine the recipient **trader** without going through a tender or other competitive process:
- (b) undertake a tender or other competitive process to determine the recipient **trader**.”

- (2) Delete Schedule 11.5, clause 5(8).

8 Schedule 11.5, clause 7 (Registry manager may complete switch without required information)

Replace Schedule 11.5, clause 7 with:

“7 Authority may direct registry manager to process certain ICP switching activities

- “(1) If the **Authority** gives written notice to a defaulting **trader** under clause 2, the **Authority** may, by written notice to the **registry manager**, even if the defaulting **trader** has not complied with its obligations under Schedule 11.3, direct the **registry manager** to—
 - (a) initiate and complete the switch of an **ICP** away from the defaulting **trader**; or
 - (b) process the initiation or completion of the switch of an **ICP** away from the defaulting **trader**; or
 - (c) cancel the switch of an **ICP** to the defaulting **trader**; or

- (d) process the completion of a switch withdrawal request under clauses 17 and 18 of Schedule 11.3 for an **ICP** that is being switched to the defaulting **trader**; or
- (e) cancel a switch withdrawal request made under clauses 17 and 18 of Schedule 11.3 for an **ICP** that is being switched away from the defaulting **trader**.

“(2) The **registry manager** must, as soon as possible, comply with a direction given by the **Authority** in a written notice.”

9 **Clause 14.41 (Definition of an event of default)**

In clause 14.41(1)(f), delete “or threatens to stop or suspend,”.

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 28 days after the date of the Gazette Notice.

This amendment amends clause 14.41 and Schedule 11.5, which relate to events of default and the process for dealing with events of default in respect of traders. The amendment:

- (a) amends the description of an event of default; and
- (b) requires the metering equipment provider or providers of a defaulting trader to provide metering-related information to the Electricity Authority (“Authority”), if requested by the Authority; and
- (c) improves the way the Authority may communicate with customers of a defaulting trader; and
- (d) clarifies the Authority’s ability to assign customers of a defaulting trader to another trader; and
- (e) makes changes to switching activities in respect of installation control points during the trader default process; and
- (f) clarifies the clearing manager’s role during the trader default process.

Date of notification in the *Gazette*: XXXX