

Western Australia

**Electricity Industry (Customer Contracts)
Regulations 2005**

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Electricity Industry (Customer Contracts) Regulations 2005

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Western Australia

Electricity Industry Act 2004

Electricity Industry (Customer Contracts) Regulations 2005

Part 1 — Preliminary

1. Citation

These regulations are the *Electricity Industry (Customer Contracts) Regulations 2005*.

2. Commencement

These regulations come into operation on 1 January 2006.

3. Terms used in these regulations

In these regulations, unless the contrary intention appears —
“**code of conduct**” has the meaning given to that term in section 78;

“**customer**” has the meaning given to that term in section 47;

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

“**distributor**”, in relation to a customer, means the person holding —

(a) a distribution licence; or

(b) an integrated regional licence,

for the distribution system through which electricity is supplied to the customer;

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“**meter**” means equipment used to measure the quantity of electricity supplied to a customer;

“**network equipment**” means the meter and any wires, apparatus or other equipment used for or in connection with the supply of electricity and located upstream from the meter;

“**non-standard contract**” has the meaning given to that term in section 47;

“**price**” includes charge, fee and tariff;

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

“**retailer**”, in relation to a customer, means the retail licensee selling, or intending to sell, electricity to the customer;

“**retail licensee**” has the meaning given to that term in section 47;

“**section**” means a section of the Act;

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

“**standard form contract**” has the meaning given to that term in section 47;

“**supply**” means the supply of electricity to a customer;

“**supply premises**” means the premises to which electricity is, or will be, supplied under a customer contract.

4. Parts 2 and 4 not to apply to certain contracts

Parts 2 and 4 do not apply to a non-standard contract entered into before 31 March 2006.

Part 2 — General requirements for 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

A customer contract must specify the retailer'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 will provide under the contract.

9. Customer's obligation to pay for electricity

A customer contract must require the customer to pay for electricity supplied under the contract.

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10. Interference with network equipment

A customer contract must prohibit the customer from tampering with or bypassing network equipment or allowing any other person to do so.

11. Disconnection and reconnection

A customer contract must describe the circumstances in which —

- (a) the retailer has a right to disconnect supply; and
- (b) the retailer is required to reconnect supply.

12. Security deposits

- (1) A customer contract must require any security deposit held by the retailer —
 - (a) to be kept in a separate trust account; and
 - (b) to be separately identified in the accounting records of the retailer.
- (2) A customer contract must require the retailer —
 - (a) to pay to the customer interest on any security deposit at the bank bill rate; and
 - (b) to advise the customer of the bank bill rate if requested to do so.
- (3) A customer contract must provide for interest referred to in subregulation (2)(a) to accrue daily and to be capitalised every 90 days unless paid.
- (4) In subregulation (2) —
“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 (3) or, if the

rate is not displayed on that day, the rate displayed on the most recent day before that day.

- (5) Subregulations (2) and (3) do not apply to a customer contract of a relevant corporation.

13. Prices

- (1) A customer contract must describe the prices payable by the customer under the contract and the circumstances in which those prices are payable.
- (2) A customer contract must include details of the retailer's obligations under clause 10.1(3) of the code of conduct in relation to the provision of tariff information.

14. 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.

15. Termination

- (1) A customer contract must —
- (a) deal with the circumstances in which the contract may be terminated by the retailer or the customer;
 - (b) deal with the procedures for and in relation to termination of the contract;
 - (c) without limiting regulation 13(1), describe any fees, charges or penalties payable by the customer if the contract is terminated and the circumstances in which they are payable; and
 - (d) deal with when termination of the contract takes effect.
- (2) Without limiting subregulation (1), a customer contract must authorise the retailer to terminate the contract if the customer —
- (a) becomes insolvent;

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- (b) goes into liquidation;
 - (c) becomes bankrupt; or
 - (d) commits a breach of the contract for which the retailer has a right, under the contract or a written law, to disconnect supply.
- (3) Without limiting subregulation (1), a customer contract must include provisions that state that if the contract is terminated —
- (a) the retailer may arrange for a final meter reading and for disconnection;
 - (b) the retailer may issue a final bill to the customer;
 - (c) the retailer may, subject to the provisions of any written law, charge the customer a fee for the final meter reading, disconnection and final bill;
 - (d) the retailer or distributor may remove any network equipment at any time after the day on which the contract ends; and
 - (e) the customer must allow the retailer or distributor safe and unrestricted access to the supply premises for the purpose of removing network equipment.
- (4) If a customer contract (the “**first contract**”) provides for termination of the contract in circumstances where the customer has entered into another customer contract with the retailer, the first contract must not provide for the termination to take effect before the cooling-off period (if any) for the other customer contract expires.
- (5) In subregulation (4) —
- “**cooling-off period**” has the meaning given to that term in —
- (a) regulation 22(1) if the contract is a standard form contract; or
 - (b) regulation 32(1) if the contract is a non-standard contract.

- (6) If a customer contract (the “**first contract**”) provides for termination of the contract in circumstances where the customer has entered into a customer contract with another retailer, the first contract must not provide for the termination to take effect before the customer is transferred to the other retailer in accordance with the *Electricity Industry Customer Transfer Code 2004*.

16. Amendment of contract

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

17. Assignment

- (1) A customer contract must deal with the assignment of rights and obligations under the contract by the customer and the retailer.
- (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.

18. Complaints

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

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19. Confidentiality

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.

20. 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 when dealing with the customer.

21. 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 unless the exclusion, restriction or modification is expressly authorised by the code of conduct.
- (2) A provision which contravenes subregulation (1) is of no effect.

Part 3 — Requirements for standard form contracts

22. 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 2.5(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 terminate 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 retailer from supplying electricity 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 retailer for electricity supplied and for any services provided in connection with that supply if —
 - (a) at the request of the customer, electricity is supplied to the customer during the cooling-off period; and
 - (b) the customer exercises his or her right to terminate the contract during that period.

23. Termination of contract by customer

Without limiting regulation 15(1), a standard form contract must authorise the customer to terminate the contract at any time by giving notice to the retailer not less than 5 days before the day on which the customer wants the contract to end.

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24. 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.

25. Meter testing

A standard form contract must inform the customer —

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

26. Access to supply premises

- (1) A standard form contract must require the customer to provide safe and unrestricted access to network equipment at the supply premises.
- (2) A standard form contract must require the retailer to take reasonable steps to ensure that any person who enters the supply premises on behalf of the retailer —
 - (a) clearly displays a form of identification; and
 - (b) shows a form of identification to the customer if requested to do so.
- (3) In subregulation (2) —
“form of identification” means a card or other written material that identifies the person as an employee or agent of the retailer.

27. Customer entering supply premises — existing connection

A standard form contract must, in relation to an existing electricity connection, specify the method used to determine the quantity of electricity supplied to the customer at the supply

premises if a final meter reading was not carried out on the day that the previous customer left the supply premises.

28. Customer leaving supply premises

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 before the customer leaves the supply premises;
- (b) the method used to determine the final charge payable by the customer for electricity supplied at the supply premises and any fee payable by the customer in respect of that determination;
- (c) the nature and extent of the customer's obligation to pay for electricity supplied at the supply premises.

29. Matters beyond the control of customer or retailer

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

30. Security deposits

- (1) A standard form contract must set out —
 - (a) the circumstances in which the retailer may ask the customer to pay a security deposit;
 - (b) the method used to calculate the amount of any security deposit; and
 - (c) the maximum amount that the retailer may ask the customer to pay as a security deposit.
- (2) Provisions for the purposes of subregulation (1) must include provisions which have the same effect in relation to a security deposit as section 62(11) to (15) of the *Energy Operators*

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(Powers) Act 1979 have in relation to a security required under that Act.

- (3) This regulation does not apply to the standard form contract of a relevant corporation.

31. Payment difficulties and debt recovery

- (1) A standard form contract must deal with the rights and obligations of the customer and the retailer in circumstances where the customer has difficulty paying a bill.
- (2) A standard form contract must deal with the rights and obligations of the customer and the retailer in relation to debt collection.

Part 4 — Requirements for non-standard contracts

32. 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 terminate a non-standard contract within the period of 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 from supplying electricity 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 for electricity supplied and for any services provided in connection with that supply if —
 - (a) at the request of the customer, electricity is supplied to the customer during the cooling-off period; and
 - (b) the customer exercises his or her right to terminate the contract during that period.

33. Termination of contract by customer

- (1) In this regulation —
“**fixed term contract**” means a non-standard contract that is expressed to have effect for a definite period.
- (2) Without limiting regulation 15(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 not less than 5 days before the day on which the customer wants the contract to end.
- (3) A fixed term contract must authorise the customer to terminate the contract at any time by giving notice to the retailer not less

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than 20 days before the day on which the customer wants the contract to end.

- (4) A fixed term contract must specify any amount payable by the customer, by way of penalty, in the event that the customer terminates the contract before the expiry of the term of the contract.

34. Amendment of contract

Without limiting regulation 16, a non-standard contract must require the retailer to notify the customer of any amendment to the contract.

Part 5 — Deemed contracts with default supplier

35. Meaning of terms used in this Part

In this Part, unless the contrary intention appears —

“connection point” means the point at which premises owned or occupied by a customer are connected to a distribution system;

“default supplier” for a connection point means the default supplier determined for the connection point under regulation 36(1);

“distributor” means a person holding —

- (a) a distribution licence; or
- (b) an integrated regional licence authorising the operation of a distribution system.

36. Determination of default supplier

- (1) A distributor is required to determine from time to time the default supplier for each connection point that connects to a distribution system operated by the distributor.
- (2) A determination under subregulation (1) must be made in such a way that the default supplier for each connection point is the retail licensee identified by the distributor as supplying electricity at the connection point.
- (3) It is a condition of a distributor’s distribution licence or integrated regional licence that the distributor must comply with the obligation in subregulation (1).

37. Supply under deemed contract with default supplier

If a customer commences to take a supply of electricity at premises without entering into a contract for the supply with a retail licensee, the electricity is deemed to be supplied under the standard form contract of the default supplier for the connection point in respect of those premises.

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38. Default supplier to notify customer

- (1) Within 5 days after becoming aware of a customer taking a supply of electricity at premises in the circumstances referred to in regulation 37, the default supplier for the connection point in respect of those premises is required to notify the customer in writing —
 - (a) that the default supplier is the default supplier for that connection point; and
 - (b) of the effect of regulation 37.
- (2) It is a condition of a default supplier's retail licence or integrated regional licence that the default supplier must comply with the obligation in subregulation (1).

Part 6 — Miscellaneous

39. Exception for section 54(1)

The licence condition provided for in section 54(1) is subject to the exception that a licensee may supply electricity to customers under a non-standard contract that does not comply with the Act if the contract is entered into before 31 March 2006.

40. Requirement to offer to supply electricity under standard form contract

- (1) Western Power Corporation is required to offer to supply electricity under a standard form contract to a customer who requests supply on or after the day on which these regulations come into operation.
- (2) The obligation in subregulation (1) does not arise if —
 - (a) the premises of the customer requesting supply are not connected to a distribution system; and
 - (b) there is no obligation under the *Electricity Industry (Obligation to Connect) Regulations 2005* regulation 4 for a distributor to attach or connect those premises to a distribution system.
- (3) The obligation in subregulation (1) does not arise if the customer requesting supply —
 - (a) owes an amount of money to Western Power Corporation; and
 - (b) has not —
 - (i) entered into an arrangement with Western Power Corporation for payment of the amount owed; or
 - (ii) complied with the terms of any such arrangement.
- (4) It is a condition of every retail licence and integrated regional licence held by Western Power Corporation that it must comply with the obligation in subregulation (1).

Notes

¹ This is a compilation of the *Electricity Industry (Customer Contracts) Regulations 2005*. The following table contains information about that regulation.

Compilation table

Citation	Gazettal	Commencement
<i>Electricity Industry (Customer Contracts) Regulations 2005</i>	23 Dec 2005 p. 6256-66	1 Jan 2006 (see r. 2)