

# APPENDIX 9

## REPRODUCED EXTRACTS

### REVISED ENERGY RETAIL CODE (VICTORIA)<sup>1</sup>

#### Version 7

February 2010

**(effective Date April 2010)**

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<sup>1</sup> Energy Retail Code Version 7 February 2010 commencement date April 2010  
<http://www.esc.vic.gov.au/NR/rdonlyres/1C4BEA8F-B31D-49F2-89F0-3E2D70172A1B/0/EnergyRetailCodeFebruary2010with1April2010dateofeffect20100201.pdf>

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## **ENERGY RETAIL CODE**

### **Purpose**

This Code specifies the terms and conditions required in a contract for the supply or sale of energy.

The code applies to:

1. all domestic consumers
2. for electricity purposes, small business consumers who consume less than 40MWh of electricity per year and
3. for gas purposes, small business consumers who consume less than 1000GJ of gas per year<sup>1</sup>.

### **Relevant legislation**

The terms and conditions specified by this Code are determined by the *Commission* for the purposes of section 36 of the *Electricity Act* and of section 43 of the *Gas Act*:

- to any *market contract* made before or after 1 January 2009;
- to any *energy contract* arising from the acceptance of a *standing offer*; and
- to any deemed contract;

As contemplated by section 36(1)(b) of the *Electricity Act* and by section 43(1)(b) of the *Gas Act*, all of the terms and conditions determined by the *Commission* and set out in Parts 1 to 9 (inclusive) of this Code are provided for in *retailers'* electricity and gas retail licences.

### **Commencement**

The February 2010 amendments to the Code takes effect from 1 April 2010.

<sup>1</sup> As defined by the s 36 of the *Electricity Industry Act 2000* and s 43 of the *Gas Industry Act 2001*.

## PART 9 DEFINITIONS AND INTERPRETATION

### 34. DEFINITIONS

In this Code, including the preamble, unless the context otherwise requires:

***acceptable identification*** in relation to:

- (a) a ***domestic customer***, includes one or more of the following: a driver's licence, a current passport or other form of photographic identification, a Pensioner Concession Card or other current entitlement card issued by the Commonwealth or a birth certificate;
- (b) a ***business customer*** which is a sole trader or partnership, includes one or more of the forms of identification for a ***domestic customer*** for each of the individuals that conduct the business; and
- (c) a ***business customer*** which is a company, includes the company's Australian Company Number or Australian Business Number.

***additional retail charge*** means a charge relating to the sale of ***energy*** by a ***retailer*** to a ***customer*** other than a charge based on the ***tariff*** applicable to the ***customer*** and which must be calculated in accordance with clause 30 of this Code. To avoid doubt:

- (a) any network charge relating to the supply, but not sale, of ***energy*** to a ***customer's supply address*** is not an ***additional retail charge*** (whether or not the network charge is bundled in the ***retailer's tariff***);
- (b) without limiting paragraph (a), any charge the ***retailer*** may impose as a direct pass through of a distribution tariff, excluded service charge for electricity, ancillary reference tariff for gas or other charge imposed on the ***retailer*** by a ***distributor*** for ***connection*** to, or use of, the ***distributor's*** distribution system is not an ***additional retail charge***; and
- (c) any amount payable by a ***customer*** to a ***retailer*** for the ***customer's*** breach of their ***energy contract***, whether under an ***agreed damages term*** or otherwise, is not an ***additional retail charge***.

***agreed damages term*** means a term or condition of an ***energy contract*** under which a ***customer*** and a ***retailer*** have agreed the amount, or a basis for determining the amount, that will be payable by the ***customer*** to the ***retailer*** for the ***customer's*** breach of their ***energy contract***.

***amount outstanding***, in respect of an ***energy*** or water bill issued to a ***domestic customer***, means:

- (a) unless paragraph (b) applies, any amount which is not paid by the due date specified on the bill; or
- (b) if the ***domestic customer*** and the relevant service provider enter into an agreement or arrangement for the ***domestic customer*** to pay the amount or an instalment on a later date, any amount or installment which is not paid by that later date in accordance with the agreement or arrangement.

***applicable regulatory instruments*** may include (but is not necessarily limited to) one or more of the following:

- (a) for electricity:

- the *National Electricity Rules*;
- the *Metrology Procedure: Part A (National Electricity Market)*;
- the *Metrology Procedure: Part B (National Electricity Market)*;
- the *Electricity Customer Transfer Code*; and
- the *Electricity Customer Metering Code*; and

(b) for gas:

- the *Gas Distribution System Code*;
- the *Retail Rules*; and
- the *National Gas Rules*;

or any other regulatory instrument which substitutes, amends or supplements any of the above.

***assigned meter identifier*** means:

(a) for electricity, the National Meter Identifier assigned to the *customer's* metering installation; and

(b) for gas, the Meter Installation Reference Number assigned to the *customer's* metering installation.

***assignment*** includes dispose of, declare a trust over or otherwise create an interest in rights under an *energy contract*.

***bank bill rate*** in respect of the interest a *retailer* must pay to a *customer* on the amount of a *refundable advance*, means a daily published rate no less than the pre-tax rate of return the *retailer* would earn over the period the *retailer* retains that amount if it were invested in bank bills that have a tenor equal to 90 days.

***best endeavours*** in relation to a person, means the person must act in good faith and do what is reasonably necessary in the circumstances.

***billing cycle*** means the regular recurrent period in which a *customer* receives a bill from a *retailer*.

***business customer*** means a *customer* who is not a *domestic customer*.

***business day*** means a day other than a Saturday or Sunday or a *public holiday*.

***checksum*** means:

(a) for electricity, the National Meter Identifier checksum; and

(b) for gas, the Meter Installation Reference Number checksum.

***Commission*** means the Essential Services Commission under the *Essential Services Commission Act 2001*.

***concession*** means a concession, rebate or grant including, without limitation, those known as or relating to:

(a) Winter Energy Concession;

- (b) Life Support Machines;
- (c) Group Homes;
- (d) Multiple Sclerosis or Associated Conditions;
- (e) Service to Property Charge Supply Concession;
- (f) Property Transfer Fee Waiver; and
- (g) Utility Relief Grant Scheme.

**connect** means:

- (a) for electricity, the making and maintaining of contact between the electrical systems of two persons allowing the supply of electricity between those systems; and
- (b) for gas, the joining of a **natural gas installation** to a distribution system **supply point** to allow the flow of gas.

**cooling-off period** in respect of an **energy contract** means any period within which the **customer** has a right to cancel the **energy contract** under clause 3.4 of the Code of Conduct for Marketing Retail Energy in Victoria issued by the Commission in January 2009 or the Fair Trading Act 1999 (Vic).

**customer** means a person other than:

- (a) for electricity, a **retailer**; and
- (b) for gas, a participant or market participant as defined in the **National Gas Rules**, who buys or proposes to buy energy from a **retailer**.

**date of receipt** in relation to a notice given by a **retailer** means:

- (a) if the **retailer** hands the notice to the **customer**, the date the **retailer** does so;
- (b) if the **retailer** leaves the notice at the **customer's supply address**, the date the **retailer** does so; or
- (c) if the **retailer** gives the notice by post, a date two **business days** after the date the **retailer** posts the notice.

**deemed** in respect of an **energy contract** means an **energy contract** deemed to apply between a **customer** and a **retailer** under the **Electricity Act** or the **Gas Act** and **deemed contract** has a corresponding meaning.

**deemed customer** means a person who is **deemed** to have an **energy contract**.

**disconnect** means:

- (a) for electricity, the disconnection of contact between the electrical systems of two persons preventing the supply of electricity between those systems; and
- (b) for gas, the separation of a **natural gas installation** from a distribution system to prevent the flow of gas.

**distributor** means a person who holds, or in the case of electricity only is exempt from holding, a distribution licence under the **Electricity Act** or the **Gas Act**.

**domestic customer** means a **customer** who purchases **energy** principally for personal, household or domestic use at the relevant **supply address**.

**dual fuel contract** means an **energy contract** for the sale of electricity and for the sale of gas by a **retailer** to a **customer**, or two **energy contracts** between the same **customer** and the same **retailer**, one an **electricity contract** and one a **gas contract**, under which

**billing cycles** for electricity and gas are synchronised. The **dual fuel contract** may also oblige the **retailer** to **connect** the **customer's supply address** or to otherwise procure the supply of electricity or of gas or of both electricity and gas.

**electric bulk hot water** means water centrally heated by electricity and delivered to a number of **customer supply addresses** where the **customer's** consumption of hot water is measured with a **meter** and where an **energy bill** is issued by a **retailer**.

**electric bulk hot water conversion factor** means the **conversion factor** used by **retailers** to bill **electric bulk hot water customers**. The **electric bulk hot water conversion factor** will have a maximum value of 89kWh per kilolitre. Where **customers** are currently billed using a lower **electric bulk hot water conversion factor**, or a lower **electric bulk hot water conversion factor** for the site is assessed, **retailers** must bill **customers** using the lower **electric bulk hot water conversion factor**.

**Electricity Act** means the *Electricity Industry Act 2000*.

**electricity contract** means a contract for the sale of electricity by a **retailer** to a **customer**. The **electricity contract** may also oblige the **retailer** to **connect** the **customer's supply address** or to otherwise procure the supply of electricity.

**Electricity Customer Metering Code** means the industry code of that name certified by the **Commission**.

**Electricity Customer Transfer Code** means the industry code of that name certified by the **Commission**.

**energy** means electricity or gas or both electricity and gas.

**energy contract** means an **electricity contract** or a **gas contract** and may include a **dual fuel contract**.

**evergreen contract** means an **energy contract**, other than a **fixed term contract**, which includes a **maturity date**.

**explicit informed consent** means consent given:

(a) by the **customer** directly to the **retailer** or the **retailer's marketing representative**:

(i) in writing or by electronic communication signed by the **customer**; or

(ii) except for the purposes of clause 5.1 and 10.1 of this Code, orally;

(b) only after the **retailer** or the **retailer's marketing representative** has clearly, fully and adequately disclosed in plain English all matters relevant to the consent of the **customer**, including each specific purpose and use of the consent; and

(c) by a person competent to do so.

**fixed term contract** means an **energy contract** the term of which continues for a fixed, certain or definite period including, in the case of a **deemed contract**, any fixed, certain or definite period under or contemplated by the **Electricity Act** or the **Gas Act**.

**force majeure breach** means a breach by a **retailer** or a **customer** of their **energy contract** which, but for clause 18, the **retailer** or the **customer** would commit arising only through a **force majeure event**.

**force majeure event** means an event outside the reasonable control of a **retailer** or a **customer**.

**franchise customer** in relation to the period ending on:

(a) for electricity, 31 December 2000; and

(b) for gas, 31 August 2001, means a franchise customer within the meaning of:

(a) for electricity, the **Electricity Industry Act 1993** immediately before 1 January 2001; and

(b) for gas, the **Gas Industry Act 1994** immediately before 1 September 2001.

**FRC date** means the date on which there ceases to be in effect an Order made under section 35 of the **Gas Act** (i.e., the date from which all **customers** will be able to choose their gas **retailer**).

**Gas Act** means the **Gas Industry Act 2001**.

**gas bulk hot water** means water centrally heated by gas and delivered to a number of **customer supply addresses** where the **customer's** consumption of hot water is measured with a **meter** and where an **energy bill** is issued by a **retailer**.

**gas bulk hot water rate** means the gas price in cents per litre that is used by a **retailer** to charge **customers** for **energy** in delivering **gas bulk hot water**.

**gas contract** means a contract for the sale of gas by a **retailer** to a **customer**. The **gas contract** may also oblige the **retailer** to **connect** the **customer's supply address** or to otherwise procure the supply of gas.

**Gas Distribution System Code** means the code of that name certified by the **Commission**.

**gazetted tariff** at any time means a **tariff** determined by a **retailer** and published by the **retailer** in the Government Gazette and at that time effective under:

(a) for electricity, section 35 of the **Electricity Act**; and

(b) for gas, section 42 of the **Gas Act**.

A **gazetted tariff** corresponds with a **tariff** applicable to a **customer** under an **energy contract** if it is the **tariff** that a **retailer** would be required to offer to the **customer** if the **customer** at that time made a request for a **standing offer** in respect of the relevant **supply address**.

**gazetted term or condition** at any time means a term or condition determined by a **retailer** and approved by the **Commission** and published by the **retailer** in the Government Gazette and at that time effective under:

(a) for electricity, section 35 of the *Electricity Act*.

(b) for gas, section 42 of the *Gas Act*.

**guideline** means a guideline published by the *Commission*.

**late payment fee** means an amount payable by a *customer* to a *retailer* in connection with the *customer* having breached the *customer's* obligation to pay an amount due on or before the pay by date on the *retailer's* initial bill.

**last resort event** in respect of a *retailer* means when:

(a) the *retailer's* retail licence is suspended or revoked; or

(b) the right of the *retailer* to acquire:

- for electricity, electricity from the wholesale electricity market; and
- for gas, gas from a wholesale gas market or a producer, is suspended or terminated, whichever first occurs.

**local retailer** has the same meaning :

(a) for electricity, as made under Order-in-Council S315 dated 25.11.08 in accordance with section 35 of the *Electricity Act*; and

(b) for gas, as made under Order-in-Council S315 dated 25.11.08 in accordance with section 42 of the *Gas Act*.

**market contract** means an *energy contract* between a *customer* and a *retailer* which is not a *deemed contract* nor an *energy contract* arising from the acceptance of a *standing offer*.

**marketing representative** includes an employee, agent, representative, contractor or person acting on behalf of a *retailer*, who is engaged in marketing and or selling the *retailer's energy contracts*.

**maturity date** in respect of an *energy contract* means a date included in the *energy contract* on which a fixed, certain or definite period ends:

(a) before which, if the *customer* terminates the *energy contract*, the *retailer* may have a right to impose an early termination fee; and

(b) after which, if the *customer* terminates the *energy contract*, the *retailer* has no right to impose an early termination fee.

**meter** in respect of a *customer* means:

(a) for electricity, the device which measures and records the consumption of electrical energy consumed at the *customer's supply address*;

(b) for gas, an instrument that measures the quantity of gas passing through it and includes associated equipment attached to the instrument to filter, control or regulate the flow of gas and;

(c) for *electricity bulk hot water* or *gas bulk hot water*, the device which measures and records the consumption of bulk hot water consumed at the *customer's supply address*.



***Metrology Procedure: Part A (National Electricity Market)*** is the procedure as published by the Australian Energy Market Operator in accordance with clause 7.14.1(a) of the ***National Electricity Rules***.

***Metrology Procedure: Part B (National Electricity Market)*** is the procedure as published by the Australian Energy Market Operator in accordance with clause 7.14.1(a) of the ***National Electricity Rules***.

***National Electricity Rules*** means the Rules made under the National Electricity (Victoria) Law applicable in Victoria as a result of the operation of section 6 of the ***National Electricity (Victoria) Act 2005***.

***National Gas Rules*** means the Rules made under the ***National Gas Law*** as contained in a Schedule to the ***National Gas (South Australia) Act 2008***.

***natural gas installation*** means any gas equipment located at a ***customer's supply address*** downstream of the ***supply point*** that is not part of a distribution system.

***public holiday*** means a public holiday appointed under the ***Public Holidays Act 1993***.

***reasonable assurance*** in relation to a ***customer's*** willingness to pay means a fair and reasonable expectation, based on all the circumstances leading to, and which are anticipated to follow, the assurance that the ***customer*** will pay.

***reconnect*** means to connect following a disconnection.

***refundable advance*** means an amount of money or other arrangement acceptable to a ***retailer*** as security against a ***customer*** defaulting on a final bill.

***relevant customer*** means a person, or a member of a class of persons, to whom an Order under:

- (a) for electricity, section 36 of the ***Electricity Act***; and
- (b) for gas, section 43 of the ***Gas Act***, applies.

***relevant default*** in relation to a ***domestic customer***, occurs where:

(a) within the previous five years, the ***domestic customer*** has failed to pay a bill under an ***energy*** contract with the ***retailer*** or any former or other ***retailer*** or in respect of the ***customer's*** water consumption, where:

- the ***amount outstanding*** is greater than or equal to \$120;
- the payment is at least 60 days overdue; and
- the ***retailer***, the former or other ***retailer*** or water provider has taken steps to recover the whole or any part of the ***amount outstanding***;

(b) within the past five years, a court has issued judgment against the ***domestic customer*** in relation to a debt; or

(c) the ***domestic customer*** has been declared bankrupt and the bankruptcy order has not been discharged.

*responsible* in respect of a *retailer* and a *supply address* means the *retailer* is responsible for the *energy* supplied at the *supply address* for the purposes of settlement of a relevant wholesale *energy* market under *applicable regulatory instruments*.

*retailer* means a person who holds a retail licence under the *Electricity Act* or under the *Gas Act*.

*Retail Rules* means the *Retail Market Procedures (Victoria)* issued by the Australian Energy Market Operator and authorised under the *National Gas Law* and the *National Gas Rules*.

*second tier electricity customer* means, in respect of the relevant *supply address*, the *customer* who purchases electricity otherwise than directly and in its entirety from the *retailer* that is the *local retailer* in respect of that *supply address*.

*standing offer* means an offer made by a *retailer* as contemplated by:

- (a) for electricity, section 35 of the *Electricity Act*; and
- (b) for gas, section 42 of the *Gas Act*.

*supply address* includes:

- (a) for electricity, the relevant market connection point (as defined in the *National Electricity Rules*) in respect of that supply address; and
- (b) for gas, the point where gas leaves the distribution system before being supplied to a *customer*, whether or not it passes through facilities owned or operated by another person after that point and before being so supplied.

*supply point* means the point where gas or electricity leaves the distribution system before being supplied to the customer, whether or not it passes through facilities owned or operated by another person after that point and before being so supplied.

*tariff* means a price for the supply or sale of *energy*.

*transfer* in respect of a *customer* and two *retailers*, means that *responsibility* for the relevant *supply address* of the *customer* has transferred from one of the *retailers* to the other.

*writing* includes any mode of representing or reproducing words, figures, drawings or symbols in visible form.

## **35. INTERPRETATION**

### **35.1 Connection, disconnection and reconnection**

A *retailer* is not in a position to *connect*, *disconnect* or *reconnect* the electrical system or *natural gas installation* at a *customer's supply address* to a *distributor's* distribution system. In this Code unless the context otherwise requires, a reference in a term or condition to a *retailer*:

- (a) having a right or not having a right to *disconnect* a *customer* is to be construed as a reference to the *retailer* having a right or not having a right to procure the *distributor* to *disconnect*; or

(b) being obliged to *connect, disconnect* or *reconnect* a *customer* is to be construed as a reference to the *retailer* being obliged to use its *best endeavours* to procure the *distributor* to *connect, disconnect* or *reconnect*, the electrical system or *natural gas installation* at the *customer's supply address* to the *distributor's* distribution system.

## 35.2 General

In this Code including the preamble, unless the context otherwise requires:

(a) headings and footnotes are for convenience or information only and do not affect the interpretation of this Code or of any term or condition set out in this Code;

(b) words importing the singular include the plural and vice versa;

(c) an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency and vice versa;

(d) a reference to a clause or appendix is to a clause or appendix of this Code;

(e) a reference to any statute includes all statutes varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, ordinances, by-laws and determinations issued under that statute;

(f) a reference to a document or a provision of a document includes an amendment or supplement to, or replacement of or novation of, that document or that provision of that document;

(g) a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;

(h) other parts of speech and grammatical forms of a word or phrase defined in this Code have a corresponding meaning;

(i) a period of time:

- which dates from a given day or the day of an act or event is to be calculated exclusive of that day; or
- which commences on a given day or the day of an act or event is to be calculated inclusive of that day;

(j) a reference to:

- time is a reference to Standard Time within the meaning of the *Summer Time Act 1972* and not Summer Time within the meaning of that Act;
- a day is a reference to a period commencing immediately after midnight and ending the following midnight; and
- a month is a reference to a calendar month; and

(k) an event which is required under any term or condition set out in this Code to occur on or by a stipulated day which is not a *business day* may occur on or by the next *business day*.

## **Appendix 1**

### **Variation by Agreement**

A list of the terms and conditions set out in this Code which are marked with an asterisk (\*),

are allowed to be varied by agreement between customers and retailers in the formation of market contracts. These terms and conditions are:

- Clause 3.1(a) and (b)
- Clause 4.2(m).
- Clause 4.4(a).
- Clause 5.3.
- Clause 5.4(a).
- Clause 7.1(b).
- Clause 7.2(a).
- Clause 7.3.
- Clause 24.1(b).

<http://www.esc.vic.gov.au/NR/rdonlyres/1C4BEA8F-B31D-49F2-89F0-3E2D70172A1B/0/EnergyRetailCodeFebruary2010with1April2010dateofeffect20100201.pdf>

## Appendix 2

### Bulk Hot Water Charging

#### Gas Bulk Hot Water Pricing Formulae

A. *Gas bulk hot water rate* (cents per litre) = CF (MJ per litre)

\* *gas bulk hot water tariff* (cents per MJ)

Where *customers* are charged by their *retailer* for *energy* in delivering *gas bulk hot water*:

CF = the *gas bulk hot water conversion factor* = 0.49724 MJ per litre

*gas bulk hot water tariff* = the *standing offer* tariff applicable to the *gas bulk hot water* unit (gas tariff 10/11)

Where *customers* are charged for *energy* in delivering *gas bulk hot water* pursuant to a *market contract*:

CF = the *gas bulk hot water conversion factor* = 0.49724 MJ per litre

*gas bulk hot water tariff* = the market tariff applicable to the *bulk hot water* unit B. *Retailer* provided *gas bulk hot water* per customer supply charge (cents) = the supply charge under the tariff applicable to the relevant *gas bulk hot water* unit divided by the number of *customers* supplied by the relevant *gas bulk hot water* unit.

*Retailers* may decide not to charge the supply charge or may decide to roll-in the supply charge into the commodity charge of the applicable tariff.

C. *Customer gas bulk hot water* charge (cents) = the *customer's* metered consumption of hot water (litres)

\* *gas bulk hot water* price (cents per litre)

+ *customer's* supply charge (cents)

<http://www.esc.vic.gov.au/NR/rdonlyres/1C4BEA8F-B31D-49F2-89F0-3E2D70172A1B/0/EnergyRetailCodeFebruary2010with1April2010dateofeffect20100201.pdf>

### **Electric Bulk Hot Water Billing Formulae**

A. Where *customers* are charged for *energy* in delivering *electric bulk hot water* either by their *retailer* under a *standing offer* contract or pursuant to a *market contract* the:

*Customer electricity bulk hot water* charge (cents) = the *customer's* metered consumption of hot water (kilolitres)

\* electricity tariff rate(s) applicable to the *customer* for the applicable *electric bulk hot water* unit (cents per kWh)

\* CF (kWh per kilolitre)

Where:

CF = *electric bulk hot water conversion factor* used by *retailers* to bill *electric bulk hot water* customers. The *electric bulk hot water conversion factor* will have a maximum value of 89 kWh per kilolitre. Where *customers* are currently billed using a lower *electric bulk hot water conversion factor*, or a lower *electric bulk hot water conversion factor* for the site is assessed, *retailers* must bill *customers* using the lower *electric bulk hot water conversion factor*.

The *customer's* electricity tariff must be an off-peak tariff if supplied from an off-peak *electric bulk hot water* unit.

# **APPENDIX 4**

## **PERTINENT EXTRACTS –**

**National Measurement Act 1960**

**Act Compilation (current) - C2009C00273**

**Number 64 of 1960**



**PERTINENT EXTRACTS – National Measurement Act 1960**  
**Act Compilation (current) - C2009C00273**  
**Number 64 of 1960**

<http://www.comlaw.gov.au/comlaw/Legislation/ActCompilation1.nsf/0/696988C40661A93ACA2575E60006C499?Open>

## **INTERPRETATION**

### **Part I—Preliminary**

#### **1 Short title** [see Note 1]

This Act may be cited as the *National Measurement Act 1960*.

#### **3 Interpretation**

***business premises*** means premises or a part of premises:

- (a) used for the importation, packing, storage or sale of articles or utilities sold, or to be sold, by measurement; or
- (b) on which a measuring instrument is used for trade; or
- (c) used for activities incidental to the uses mentioned in paragraph (a) or (b);

but does not include premises or a part of premises occupied as a residence or for residential accommodation.

***business vehicle*** means a vehicle:

- (a) used for the transportation of articles or utilities sold, or to be sold, by measurement (whether packed in advance ready for sale or otherwise); or
- (b) on which a measuring instrument is used for trade; or
- (c) used for the measurement of articles or utilities sold, or to be sold, by measurement; or
- (d) used for activities incidental to the uses mentioned in paragraph (a), (b) or (c).

***premises*** means:

***controller***, in relation to premises, a part of premises or a vehicle, means the person apparently in control of the premises, the part of the premises or the vehicle.

**component**, in relation to a thing (in this definition called the **basic thing**) by means of which a measurement of a physical quantity may be made, includes another thing (whether or not forming part of the basic thing) where:

- (a) the basic thing is so designed or constructed as to include, or have associated with it, the other thing; and
- (b) the other thing is designed or intended to do any or all of the following:
  - (i) carrying out a conversion of the result of a measurement made by the basic thing;
  - (ii) calculating a number, tax or price by reference to the result of a measurement made by the basic thing;
  - (iii) correcting the result of a measurement made by the basic thing;
  - (iv) providing or repeating information consisting of or relating to any or all of the following:
    - (A) the result of a measurement made by the basic thing;
    - (B) a conversion of the result of a measurement made by the basic thing;
    - (C) a calculation of a number, tax or price calculated by reference to the result of a measurement made by the basic thing;
  - (v) controlling the measurement process carried out by the basic thing.

**controller**, in relation to premises, a part of premises or a vehicle, means the person apparently in control of the premises, the part of the premises or the vehicle.

- (a) an area of land or any other place, whether or not it is enclosed or built on; or
- (b) a building or other structure.

**measurement** means a determination of number or physical quantity, other than for descriptive purposes only.

**measuring instrument** means:

- (a) a thing by means of which a measurement of a physical quantity may be made; or
- (b) a component of such a thing.

**measuring instrument gives an inaccurate measurement** has the meaning given in subsection (6).

**recognized-value standard of measurement** means a standard of measurement that the Chief Metrologist has, under section 8A, determined shall be a recognized-value standard of measurement.

*reference standard of measurement* means a standard of measurement (other than an Australian primary standard of measurement, an Australian secondary standard of measurement, a recognized-value standard of measurement or a State primary standard of measurement) that has been verified in accordance with the regulations and for which the period for which a certificate of verification is given under the regulations has not expired.

*residential premises* means premises, or a part of premises, that is occupied as a residence or for residential accommodation.

*sell* includes barter or exchange.

#### **4 Objects and application of Act**

- (1) The objects of this Act are:
  - (a) to establish a national system of units and standards of measurement of physical quantities; and
  - (b) to provide for the uniform use of those uniform units and standards of measurement throughout Australia; and
  - (c) to co-ordinate the operation of the national system of measurement; and
  - (d) to bring about the use of the metric system of measurement in Australia as the sole system of measurement of physical quantities; and
  - (e) to provide for a national system of trade measurement;and this Act shall be construed accordingly.

Any measurement that allows for water volume calculations or some other bizarre equivalent, to be part of the equation that calculates energy consumption is fundamentally flawed. These provisions do not uphold public interest, best practice standards or the spirit and intent of existing provisions. The provisions are as good as relying on an oil funnel to measure the weight of a bag of apples. Energy retailers are licenced to sell gas and electricity not water products or heated water. Even if they were so licenced, there are the issues of generic and common law provisions.