

I certify that this is a copy of the authorised version of this Statutory Rule as at 28 June 2019, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 28 June 2019.

Robyn Webb  
Chief Parliamentary Counsel  
Dated 21 August 2019

## TASMANIA

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# **ELECTRICITY SUPPLY INDUSTRY CONCESSION ORDER 2016**

## **STATUTORY RULES 2016, No. 49**

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## **ELECTRICITY SUPPLY INDUSTRY CONCESSION ORDER 2016**

I make the following order under section 43D of the *Electricity Supply Industry Act 1995*.

Dated 24 June 2016.

PETER GUTWEIN  
Treasurer

### **1. Short title**

This order may be cited as the *Electricity Supply Industry Concession Order 2016*.

### **2. Commencement**

This order takes effect on the day on which its making is notified in the *Gazette*.

### **3. Interpretation**

(1) In this order –

*Act* means the *Electricity Supply Industry Act 1995*;

*approved home-based life support machine*  
means –

(a) an oxygen concentrator; and

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- (b) a peritoneal dialysis machine; and
- (c) a haemo-dialysis machine; and
- (d) a chronic positive pressure and airways regulator; and
- (e) a respirator (iron lung); and
- (f) a combination oxygen concentrator and chronic positive pressure and airways regulator; and
- (g) a phototherapy machine; and
- (h) a left ventricular assist device;

***authorised person*** means the Secretary or a person authorised in writing by the Secretary;

***authorised retailer*** has the same meaning as in the Act;

***commencement date*** means the day on which this order takes effect;

***concession*** means a concession that an authorised retailer is required to provide in accordance with this order;

***corresponding concession*** means the annual electricity concession provided under the former concession order by an authorised retailer before the commencement date;

***electricity account***, in relation to residential premises, means an invoice that –

- (a) is issued by an authorised retailer for the supply of electricity to the residential premises; and
- (b) relates to the purchase of electricity for personal, household or domestic use;

***former concession order*** means the *Electricity Supply Industry Concession Order 2015*;

***health care card*** means a health care card issued under section 1061ZS of the *Social Security Act 1991* of the Commonwealth;

***pensioner concession card*** means a pensioner concession card issued under section 1061ZF of the *Social Security Act 1991* of the Commonwealth or a pensioner concession card issued by the Commonwealth Department of Veterans' Affairs;

***prepayment meter system account***, in relation to residential premises, means a contract or arrangement under which electricity, that is metered and paid for in accordance with a prepayment meter system, is supplied at the premises;

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***prepayment meter system*** has the same meaning as in the National Energy Retail Law (Tasmania);

***residence determination*** means a residence determination made under section 197AB of the *Migration Act 1958* of the Commonwealth;

***residential premises*** means residential premises situated in any part of Tasmania other than any off-shore island of Tasmania (except for Bruny Island);

***Secretary*** means the Secretary, or an Acting Secretary, of the Department of Treasury and Finance;

***specified bridging visa*** means a Bridging E (Class WE) (Subclass 050 or 051) visa granted under the *Migration Act 1958* of the Commonwealth;

***surviving spouse***, in relation to a deceased person, means –

- (a) the person to whom the deceased person was married immediately before the death of the deceased person; and
- (b) if the deceased person (whether or not he or she was, at the time of his or her death, married to a person) was, immediately before his or her death, in a significant relationship, within the meaning

of the *Relationships Act 2003*,  
with another person – that other  
person.

- (2) The *Acts Interpretation Act 1931* applies to the interpretation of this order as if this order were regulations made under the *Electricity Supply Industry Act 1995*.

#### **4. Life support concession**

- (1) There is, for the purposes of Subdivision 3 of Division 4 of Part 3 of the Act, a class of eligible persons to be referred to as the class of life support concession holders.
- (2) A person is, on a day, a member of the class of life support concession holders, and an eligible person, in respect of residential premises, if the person is, on that day, eligible for the life support concession in respect of the residential premises.
- (3) A person is, on a day, eligible for the life support concession in respect of residential premises if –
- (a) the premises are on that day the principal place of residence of the person; and
  - (b) the person on that day either –
    - (i) requires an approved home-based life support machine at the premises; or
    - (ii) resides at those premises with another person who requires an

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approved home-based life support  
machine at the premises; and

- (c) the authorised retailer who supplies electricity to the premises has been notified, on or before that day, that the person is eligible for the life support concession in respect of the premises; and
  - (d) the day is not more than 2 years after the day on which the person (or, if the person is a surviving spouse, of a deceased person, to whom subclause (5) applies, the deceased person) submitted to the authorised retailer an application, referred to in subclause (4) claiming the life support concession.
- (4) For the purposes of this clause, an authorised retailer has been notified by a person that the person is eligible for the life support concession in respect of premises if the person has submitted to the authorised retailer an accurately completed application, in a form approved by an authorised person, that –
- (a) claims the life support concession in respect of the premises; and
  - (b) includes a certification from a medical practitioner that the person, or another person (who is a person who resides with the person), requires an approved home-based life support machine at the premises.

(5) If –

- (a) a person is a surviving spouse in relation to a deceased person; and
- (b) the deceased person was, immediately before his or her death, eligible for the life support concession in respect of residential premises; and
- (c) an electricity account, in relation to the premises, that is in the name of the deceased person is paid by or on behalf of the surviving spouse; and
- (d) the surviving spouse is, on the day on which the electricity account is paid, eligible for the life support concession in respect of the premises –

the surviving spouse is, despite subclause (3)(c), taken to have been, in relation to the electricity account, eligible for the life support concession in respect of the premises on each day during the period to which the electricity account relates, even if the authorised retailer has not been, on or before that day, notified that the person is eligible for the life support concession in respect of the premises.

(5A) If, within a period –

- (a) beginning on the day that is 2 years after a person last submitted to an authorised retailer an accurately completed application referred to in subclause (4), (the *former application*); and

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- (b) ending on the day that is 2 years and 90 days after the day on which the person submitted the former application –

the person submits to the authorised retailer a further accurately completed application referred to in subclause (4) (the *further application*), the authorised retailer may, in its discretion, determine that the further application is to be taken to have been submitted to the authorised retailer on the day that is 2 years after the former application was submitted.

- (5B) If an authorised retailer determines under subclause (5A) that an application, referred to in subclause (4), is to be taken to have been submitted to the authorised retailer on a day, the application is to be taken to have been submitted on that day.
- (6) Except if subclause (5) applies to the person, an authorised retailer is not required to provide to a person the life support concession in respect of premises for a day unless the retailer has been, on or before that day, notified that the person is eligible for the life support concession in respect of the premises.
- (7) An authorised retailer that issues to a person an electricity account in relation to the supply of electricity to residential premises during a period is required to provide to the person the life support concession in respect of the premises for each day, during that period, on which the person is, under subclause (2), an eligible person in respect of the premises.

- (8) The life support concession, in respect of premises in which is situated an approved home-based life support machine of the type specified in column 1 of Schedule 1, is, for a day, the amount specified opposite that machine in column 2 of Schedule 1.

**5. Medical cooling or heating concession**

- (1) There is, for the purposes of Subdivision 3 of Division 4 of Part 3 of the Act, a class of eligible persons to be referred to as the class of medical cooling or heating concession holders.
- (2) A person is, on a day, a member of the class of medical cooling or heating concession holders, and an eligible person, in respect of residential premises, if the person is, on that day, eligible for the medical cooling or heating concession in respect of the residential premises.
- (3) A person is, on a day, eligible for the medical cooling or heating concession in respect of residential premises if –
- (a) the premises are on that day the principal place of residence of the person; and
  - (b) the person is on that day the holder of a current pensioner concession card or a current health care card; and
  - (c) the person, or a person with whom the person lives, has, in accordance with clause 6, a recognised medical need on that day for the premises in which the

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- person resides to be heated or cooled;  
and
- (d) the authorised retailer who supplies electricity to the premises has been notified, on or before that day, that the person is eligible for the medical cooling or heating concession in respect of the premises; and
- (e) the day is not more than 2 years after the day on which the person (or, if the person is a surviving spouse, of a deceased person, to whom subclause (5) applies, the deceased person) submitted to the authorised retailer an application, referred to in subclause (4), claiming the medical cooling or heating concession.
- (4) For the purposes of this clause, an authorised retailer has been notified by a person that the person is eligible for the medical cooling or heating concession in respect of premises if the person has submitted to the authorised retailer an accurately completed application, in a form approved by an authorised person, that –
- (a) claims the medical cooling or heating concession in respect of the premises;  
and
- (b) contains a relevant current medical certification within the meaning of clause 6(3) in relation to the person or a person with whom the person lives.
- (5) If –

- 
- (a) a person is a surviving spouse in relation to a deceased person; and
  - (b) the deceased person was, immediately before his or her death, eligible for the medical cooling or heating concession in respect of residential premises; and
  - (c) an electricity account, in relation to the premises, that is in the name of the deceased person is paid by or on behalf of the surviving spouse; and
  - (d) the surviving spouse is, on the day on which the electricity account is paid, eligible for the medical cooling or heating concession in respect of the premises –

the surviving spouse is, despite subclause (3)(d), taken to have been, in relation to the electricity account, eligible for the medical cooling or heating concession in respect of the premises on each day during the period to which the electricity account relates, even if the authorised retailer has not been, on or before that day, notified that the person is eligible for the medical cooling or heating concession in respect of the premises.

- (5A) If, within a period –
  - (a) beginning on the day that is 2 years after a person last submitted to an authorised retailer an accurately completed application referred to in subclause (4), (the *former application*); and

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- (b) ending on the day that is 2 years and 90 days after the day on which the person submitted the former application –

the person submits to the authorised retailer a further accurately completed application referred to in subclause (4) (the *further application*), the authorised retailer may, in its discretion, determine that the further application is to be taken to have been submitted to the authorised retailer on the day that is 2 years after the former application was submitted.

- (5B) If an authorised retailer determines under subclause (5A) that an application, referred to in subclause (4), is to be taken to have been submitted to the authorised retailer on a day, the application is to be taken to have been submitted on that day.
- (5C) Subclause (5D) applies in relation to a person in respect of a pensioner concession card or current health care card if the person submits to an authorised retailer an application, referred to in subclause (4), on a day (in this clause referred to as the *application day*) after the day on which the card is issued to the person.
- (5D) If –
- (a) this subclause applies in relation to a person in respect of a pensioner concession card or current health care card; and
- (b) there is evidence, satisfactory to the authorised retailer, that the person or

entity that issued the card treats the card as applying to the person from a day (in this clause referred to as the ***retrospective issue day***) that is before the day on which the card is issued and before the application day –

the authorised retailer may, in its discretion, determine that the person is to be taken to have been the holder of the card on and from the retrospective issue day.

- (5E) If an authorised retailer determines under subclause (5D) that a person is to be taken to have been the holder of a card on and from the retrospective issue day –
- (a) the person is to be taken to have been the holder of the card on and from the retrospective issue day; and
  - (b) the application, referred to in subclause (5C), made by the person is to be taken to have been submitted –
    - (i) if subparagraph (ii) does not apply – on the retrospective issue day; or
    - (ii) if the retrospective issue day is more than 12 months before the application day – on the day that is 12 months before the application day.
- (6) Except if subclause (5) applies to the person, an authorised retailer is not required to provide to a

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person the medical cooling or heating concession in respect of premises for a day unless the retailer has been, on or before that day, notified that the person is eligible for the medical cooling or heating concession in respect of the premises.

- (7) An authorised retailer that issues to a person an electricity account in relation to the supply, during a period, of electricity to residential premises is required to provide to the person the medical cooling or heating concession in respect of the premises for each day, during that period, on which the person is, under subclause (2), an eligible person in respect of the premises.
- (8) The medical cooling or heating concession for a day is 42.155 cents.

**6. Recognised medical need for heating or cooling of residential premises**

- (1) For the purposes of clause 5, a person has a recognised medical need for the premises in which the person resides to be heated or cooled if there is, in relation to the person, a relevant current medical certification.
- (2) . . . . .
- (3) There is, in relation to a person, a relevant current medical certification if the medical practitioner treating the person has specified in an application form, referred to in clause 5(4), that relates to the medical condition of the person, that, in the opinion of the medical

practitioner, the person is unable to self-regulate his or her body temperature because he or she –

- (a) has a prescribed medical condition; or
  - (b) exhibits one of the primary qualifying medical conditions and one of the secondary qualifying medical conditions.
- (4) The treating medical practitioner in relation to a person to whom a medical condition referred to in an application referred to in clause 5(4) relates must be a medical practitioner who has been treating the person for the medical condition to which the application relates for at least 3 months before the date on which the medical practitioner has completed and signed the relevant part of the application form referred to in clause 5(4)(b).
- (5) The prescribed medical conditions are the following:
- (a) multiple sclerosis;
  - (b) lymphoedema;
  - (c) Parkinson's disease;
  - (d) fibromyalgia;
  - (e) motor neurone disease;
  - (f) post-polio syndrome or poliomyelitis;
  - (g) scleroderma;
  - (h) systemic lupus erythematosus;

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- (i) complex regional pain syndrome.
- (6) The primary qualifying medical conditions in relation to a person are the following:
- (a) autoimmune system dysfunction caused by a condition in which the autoimmune system has been damaged;
  - (b) loss of the person's skin integrity or loss of the person's capacity to sweat;
  - (c) objective reduction of the person's physiological functioning when the temperature of the surrounding environment is extreme;
  - (d) a condition that causes, when the temperature of the surrounding environment is extreme, hypersensitivity of the person, causing increased pain or discomfort or an increased risk of the person suffering complications in respect of his or her medical condition.
- (7) The secondary qualifying medical conditions in relation to a person are the following:
- (a) severe immobility of the person resulting in a total or partial inability to self-regulate his or her body temperature;
  - (b) demonstrated significant loss of autonomic regulation of sweating, heart rate or blood pressure, when the temperature of the person's surrounding environment is extreme;

- (c) demonstrated loss of physiological function, or significant aggravation of an existing clinical condition, when the temperature of the person's surrounding environment is extreme.

## **7. Annual electricity concession**

- (1) There is, for the purposes of Subdivision 3 of Division 4 of Part 3 of the Act, a class of eligible persons to be referred to as the class of annual electricity concession holders.
- (2) A person is, on a day, a member of the class of annual electricity concession holders, and an eligible person, in respect of residential premises, if the person is, on that day, eligible for the annual electricity concession in respect of the residential premises.
- (3) A person is, on a day, eligible for the annual electricity concession in respect of residential premises if –
  - (a) the premises are on that day the principal place of residence of the person; and
  - (b) the person is on that day –
    - (i) the holder of a current pensioner concession card; or
    - (ii) the holder of a current health care card; or
    - (iii) the holder of a specified bridging visa; or

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- (iv) a person to whom a current residence determination relates; and
  - (c) the authorised retailer who supplies electricity to the premises has been notified, on or before that day, that the person is eligible for the annual electricity concession in respect of the premises.
- (4) An authorised retailer has been notified that a person is eligible for the annual electricity concession in respect of premises if –
  - (a) the person was, immediately before the commencement date, receiving a corresponding concession in respect of the premises and has not ceased to reside at the premises; or
  - (b) after the commencement date, the person has submitted to the authorised retailer an accurately completed application, in a form approved by an authorised person, claiming the annual electricity concession in respect of the premises.
- (5) If –
  - (a) a person is a surviving spouse in relation to a deceased person; and
  - (b) the deceased person was, immediately before his or her death, eligible for the annual electricity concession in respect of residential premises; and

- (c) an electricity account, in relation to the premises, that is in the name of the deceased person is paid by or on behalf of the surviving spouse; and
- (d) the surviving spouse is, on the day on which the electricity account is paid, eligible for the annual electricity concession in respect of the premises –

the surviving spouse is, despite subclause (3)(c), taken to have been, in relation to the electricity account, eligible for the annual electricity concession in respect of the premises for the period to which the electricity account relates, even if the authorised retailer has not been, on or before that day, notified that the person is eligible for the annual electricity concession in respect of the premises.

- (5A) Subclause (5B) applies in relation to a person in respect of a pensioner concession card, current health care card, specified bridging visa or residence determination if the person submits to an authorised retailer an application, referred to in subclause (4)(b), on a day (in this clause referred to as the *application day*) after the day on which the card or visa is issued to the person or the residence determination is made in relation to the person.

- (5B) If –

- (a) this subclause applies in relation to a person in respect of a pensioner concession card, current health care card,

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specified bridging visa or residence determination; and

(b) there is evidence, satisfactory to the authorised retailer, that the person or entity that issued the card or visa or made the determination treats the card, visa or determination as applying to the person from a day (in this clause referred to as the *retrospective issue day*) that is –

(i) before the day on which the card or visa is issued or the determination is made; and

(ii) before the application day –

the authorised retailer may, in its discretion, determine that the person is to be taken to have been the holder of the card or visa on and from the retrospective issue day or a person to whom the residence determination relates on and from the retrospective issue day, respectively.

(5C) If an authorised retailer determines under subclause (5B) that a person is to be taken to have been the holder of a card or visa on and from the retrospective issue day or a person to whom a residence determination relates on and from the retrospective issue day –

(a) the person is to be taken to have been the holder of the card or visa on and from the retrospective issue day or a person to whom the residence determination relates on and from the retrospective issue day, respectively; and

- (b) the application, referred to in subclause (5A), made by the person is to be taken to have been submitted –
  - (i) if subparagraph (ii) does not apply – on the retrospective issue day; or
  - (ii) if the retrospective issue day is more than 12 months before the application day – on the day that is 12 months before the application day.
- (6) Except if subclause (5) applies to the person, an authorised retailer is not required to provide to a person the annual electricity concession in respect of premises for a day unless the retailer has been, on or before that day, notified that the person is eligible for the annual electricity concession in respect of the premises.
- (7) An authorised retailer that issues to a person an electricity account in relation to the supply, during a period, of electricity to residential premises is required to provide to the person the annual electricity concession in respect of the premises for each day, during that period, on which the person is, under subclause (2), an eligible person in respect of the premises.
- (8) An authorised retailer that, on a day, supplies electricity to residential premises to which a prepayment meter system account of a person relates is, if the person is, under subclause (2), an eligible person in respect of the premises on that

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day, required to provide to the person the annual electricity concession for the day.

- (9) The annual electricity concession for a day is 140.740 cents.

**8. Provision of concessions**

- (1) A concession that is required under this order to be provided to a person in respect of an electricity account issued to the person is to be provided to the person –
- (a) by way of a deduction from, or a reduction of, the amount that, but for the concession, would have been charged to the person in the electricity account; or
  - (b) by way of a refund to the person of the amount of the concession.
- (2) A concession that is required under this order to be provided to a person in respect of the supply of electricity to residential premises to which a prepayment meter system account relates is to be provided to the person –
- (a) by way of a deduction from, or a reduction of, the amount that, but for the concession, would have been charged for the supply; or
  - (b) by way of a refund to the person of the amount of the concession.
- (3) An authorised retailer is not entitled, on the grounds that another concession is payable under

this order to a person, to reduce the amount of a concession payable to the person.

**9. Legislation revoked**

The legislation specified in Schedule 2 is revoked.

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**SCHEDULE 1 – CONCESSIONS IN RESPECT OF LIFE  
SUPPORT SYSTEMS**

Clause 4(8)

	<b>Life support machine</b>	<b>Daily discount amount</b>
1.	Oxygen concentrator	104.314 cents
2.	Peritoneal dialysis machine	77.395 cents
3.	Haemo-dialysis machine	77.395 cents
4.	Chronic positive pressure and airways regulator	37.015 cents
5.	Continuous positive airways pressure machine	37.015 cents
6.	Respirator (iron lung)	137.964 cents
7.	Combination oxygen concentrator and chronic positive pressure and airways regulator	141.329 cents
8.	Phototherapy machine	196.577 cents
9.	Left ventricular assist device	37.015 cents

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**SCHEDULE 2 – LEGISLATION REVOKED**

Clause 9

*Electricity Supply Industry Concession Order 2015* (No. 50 of  
2015)

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 1 July 2016.

This order is administered in the Department of Treasury and Finance.

**NOTES**

The foregoing text of the *Electricity Supply Industry Concession Order 2016* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 28 June 2019 are not specifically referred to in the following table of amendments.

Citation	Serial Number	Date of commencement
<i>Electricity Supply Industry Concession Order 2016</i>	S.R. 2016, No. 49	1.7.2016
<i>Electricity Supply Industry Concession Amendment Order 2017</i>	S.R. 2017, No. 40	1.7.2017
<i>Electricity Supply Industry Concession Amendment Order 2018</i>	S.R. 2018, No. 41	1.7.2018
<i>Electricity Supply Industry Concession Amendment Order 2019</i>	S.R. 2019, No. 45	28.6.2019

**TABLE OF AMENDMENTS**

Provision affected	How affected
Clause 3	Amended by S.R. 2019, No. 45
Clause 4	Amended by S.R. 2019, No. 45
Clause 5	Amended by S.R. 2017, No. 40, S.R. 2018, No. 41 and S.R. 2019, No. 45
Clause 6	Amended by S.R. 2019, No. 45
Clause 7	Amended by S.R. 2017, No. 40, S.R. 2018, No. 41 and S.R. 2019, No. 45

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Provision affected	How affected
Schedule 1	Amended by S.R. 2017, No. 40 Substituted by S.R. 2018, No. 41 and S.R. 2019, No. 45