

Authorised Version

Victorian Energy Efficiency Target Amendment (Code of Conduct) Regulations 2022

S.R. No. 37/2022

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Authorised Version

STATUTORY RULES 2022

S.R. No. 37/2022

Victorian Energy Efficiency Target Act 2007

Victorian Energy Efficiency Target Amendment (Code of Conduct) Regulations 2022

The Governor in Council makes the following Regulations:

Dated: 31 May 2022

Responsible Minister:

LILY D'AMBROSIO

Minister for Energy, Environment and Climate Change

ALEXANDRA DEBELJAKOVIC

Clerk of the Executive Council

Part 1—Preliminary

1 Objective

The objective of these Regulations is to amend the Victorian Energy Efficiency Target Regulations 2018 to prescribe circumstances under which a certificate cannot be created.

2 Authorising provisions

These Regulations are made under sections 17(3) and 75 of the **Victorian Energy Efficiency Target Act 2007**.

3 Commencement

These Regulations come into operation on 1 July 2022.

4 Principal Regulations

In these Regulations, the Victorian Energy Efficiency Target Regulations 2018¹ are called the Principal Regulations.

Part 2—Certificate creation and prescribed activities

5 Definitions

In regulation 5 of the Principal Regulations **insert** the following definition—

"*code of conduct* means the code of conduct set out in Schedule 6;"

6 General conditions and circumstances under which a certificate cannot be created

At the end of regulation 15 of the Principal Regulations **insert**—

"(2) A certificate cannot be created in relation to a prescribed activity if the code of conduct has not been complied with by each person who undertakes the following—

- (a) the prescribed activity or any part of the prescribed activity;
- (b) any action associated with the prescribed activity."

7 New Schedule 6 inserted

After Schedule 5 to the Principal Regulations
insert—

'Schedule 6—Code of conduct

Regulation 15

Part 1—Preliminary

1 Definitions

In this code of conduct—

ABN has the meaning given by section 41 of the A New Tax System (Australian Business Number) Act 1999 of the Commonwealth;

contract includes agreement;

contractor includes a subcontractor of the contractor;

dispute resolution information means information referred to in clause 28(3)(b), (c) and (d);

lead generation, in relation to a prescribed activity, means any activity carried out for the purposes of identifying, attracting or engaging with persons who may enter into a contract for the undertaking of the prescribed activity, including by way of the following—

- (a) telephoning a person;
- (b) knocking on the door of a person's business or residential premises;
- (c) in person approaches to a person;

Part 2—Certificate creation and prescribed activities

- (d) contacting a person by email or online;
- (e) promoting the prescribed activity in the course of providing another product or service to a person;
- (f) following up with a person after an initial approach;

marketing, in relation to a prescribed activity, means any activity relating to the promotion, sale or supply of the prescribed activity, including a promotion, sale or supply made—

- (a) in person; or
- (b) by telephone; or
- (c) online;

regulated action, in relation to a prescribed activity, means any of the following—

- (a) lead generation for the prescribed activity;
- (b) marketing of the prescribed activity;
- (c) entering into a contract for the sale or supply of the prescribed activity;
- (d) undertaking the prescribed activity or any part of the prescribed activity;
- (e) undertaking any follow-up activity that relates to a prescribed activity;

scheme participant—see clause 2;

subcontractor includes a subcontractor of a subcontractor;

VEET Regulations means—

- (a) these Regulations; and
- (b) the Victorian Energy Efficiency Target (Project-Based Activities) Regulations 2017²;

VEET scheme consumer factsheet means the Victorian Energy Efficiency Target scheme factsheet published on the Internet site of the Department of Environment, Land, Water and Planning.

2 Meaning of *scheme participant*

- (1) A ***scheme participant***, in relation to a prescribed activity, means a person (other than an accredited person or an energy consumer) who—
 - (a) undertakes the prescribed activity or any part of the prescribed activity on behalf of an accredited person, including as—
 - (i) an employee of an accredited person; or
 - (ii) a contractor of an accredited person; or
 - (iii) an employee of a contractor of an accredited person; or
 - (b) undertakes any regulated action in respect of the prescribed activity.
- (2) A person who is purporting to undertake any part of a prescribed activity on behalf of an accredited person is taken to be a scheme participant if—

- (a) the accreditation of the accredited person is suspended or has expired or been cancelled; or
- (b) the activity does not meet the requirements of a prescribed activity.

3 Purposes of code of conduct

The purposes of this code of conduct are—

- (a) to regulate the conduct of accredited persons and scheme participants in carrying out a regulated action in relation to a prescribed activity; and
- (b) to ensure that accredited persons and scheme participants provide sufficient information to a person to enable the person to properly understand, and make informed decisions in relation to—
 - (i) the VEET scheme; and
 - (ii) a prescribed activity; and
 - (iii) their rights and obligations under the Act, the VEET Regulations and this code of conduct; and
 - (iv) the obligations of accredited persons and scheme participants under the Act, the VEET Regulations and this code of conduct; and
- (c) to ensure that accredited persons have a dispute resolution framework to handle complaints by energy consumers in relation to regulated actions carried out by accredited persons and scheme participants.

4 Principles

This code of conduct is intended to give effect to the principles that accredited persons and scheme participants carrying out a regulated action in relation to a prescribed activity must—

- (a) ensure that the action is carried out in a professional and ethical manner; and
- (b) protect the interests of energy consumers and promote confidence in the VEET scheme; and
- (c) meet high standards of conduct in their dealings with energy consumers and other persons; and
- (d) comply with—
 - (i) the Act; and
 - (ii) the VEET Regulations; and
 - (iii) the Secretary's specifications; and
 - (iv) this code of conduct; and
 - (v) the Australian Consumer Law (Victoria).

Part 2—General responsibilities

5 Responsibility of accredited person

An accredited person must ensure that the following persons have complied with this code of conduct in relation to each regulated action taken by the person in relation to a prescribed activity for which a certificate may be created—

- (a) the accredited person;

- (b) any scheme participant acting for or on behalf of the accredited person in relation to the prescribed activity;
- (c) any other scheme participant who has engaged in a regulated action in relation to the prescribed activity.

Note

Regulation 15(2) provides that a certificate cannot be created in relation to a prescribed activity if this code of conduct has not been complied with in relation to the prescribed activity.

6 Responsibility to consider capacity of persons

- (1) Before undertaking a regulated action in relation to residential premises, an accredited person or scheme participant must take reasonable steps to ensure that the regulated action is only carried out in the presence of a person of or over 18 years of age who is able to understand—
 - (a) the information provided about the prescribed activity; and
 - (b) the terms of any contract for the sale or supply of the prescribed activity.
- (2) For the purposes of subclause (1), *reasonable steps* include considering whether the person may have difficulty understanding the information or contract, including due to—
 - (a) mental illness; or
 - (b) mental impairment; or
 - (c) difficulty understanding the language in which the information or contract is provided.

7 Requirement to provide written information or document

An accredited person or scheme participant who is required to provide written information or a document to a person under this code of conduct may, with the consent of the person, provide an electronic link to access that information or document.

Part 3—Lead generation and marketing activities

8 Application of Part

This Part sets out requirements that accredited persons and scheme participants must comply with when carrying out lead generation and marketing activities in relation to a prescribed activity, including those activities carried out in the course of undertaking a prescribed activity.

9 Identification for lead generation and marketing

- (1) An accredited person or scheme participant must wear an identification card at all times when carrying out a lead generation or marketing activity in person in relation to a prescribed activity.
- (2) The identification card referred to in subclause (1) must display—
 - (a) the person's photograph; and
 - (b) the person's full name; and
 - (c) the person's contact details; and
 - (d) the person's ABN, unless paragraph (e) applies; and

- (e) if a scheme participant is carrying out the lead generation or marketing activity as an employee or contractor of an accredited person or as an employee of a contractor of an accredited person—
 - (i) the name and trading name of the accredited person or contractor on whose behalf the scheme participant is carrying out the activity; and
 - (ii) the ABN of the accredited person or contractor on whose behalf the scheme participant is carrying out the activity.

10 Responsibility in relation to minors at residential premises

An accredited person or scheme participant involved in a lead generation or marketing activity for a prescribed activity at a residential premises must leave the premises immediately on establishing that no person of or over 18 years of age is present at the premises.

11 High pressure tactics

- (1) An accredited person or scheme participant involved in a lead generation or marketing activity for a prescribed activity must not use high pressure tactics on any person.
- (2) For the purposes of subclause (1), ***high pressure tactics*** include any of the following—
 - (a) pressuring, bullying or manipulating a person;

- (b) acting in an aggressive or coercive manner towards a person;
- (c) asking questions of a person that are intrusive, unreasonable or not relevant to the prescribed activity;
- (d) contacting a person—
 - (i) listed on the Do Not Call registers administered by the Australian Communications and Media Authority; or
 - (ii) who has been contacted by the accredited person or scheme participant, or a person acting on behalf of the accredited person or scheme participant, in relation to the prescribed activity and who has requested no further contact.

12 Lead generation or marketing at a person's premises

- (1) An accredited person or scheme participant must not carry out lead generation or marketing activities for a prescribed activity in person at a person's premises if "no canvassing" or "no doorknocking" signs, or signs with similar effect, are clearly displayed at the premises.
- (2) An accredited person or scheme participant carrying out lead generation or marketing activities for a prescribed activity in person at a person's premises must leave the premises immediately on request.

13 Information about VEET scheme

An accredited person or scheme participant carrying out lead generation or marketing activities for a prescribed activity with a person must—

- (a) give clear and accurate information about the VEET scheme to the person; and
- (b) inform the person that the VEET scheme is voluntary; and
- (c) take reasonable steps to ensure that the person understands that—
 - (i) the accredited person or scheme participant does not work for the Victorian Government; and
 - (ii) the prescribed activity and any products used or supplied will be provided by private providers and not by or on behalf of the Victorian Government; and
- (d) give the person a clear and concise explanation of the VEET scheme, avoiding the use of industry jargon; and
- (e) inform the person about this code of conduct and, on request, give the person a copy of this code of conduct; and
- (f) give the person the dispute resolution information relating to the prescribed activity; and
- (g) offer the person a copy of the VEET scheme consumer factsheet.

14 Information about prescribed activity

An accredited person or scheme participant carrying out lead generation or marketing activities for a prescribed activity with a person must give the person—

- (a) the name of the accredited person who will be creating the certificate in respect of the prescribed activity; and
- (b) clear and accurate information about—
 - (i) the prescribed activity; and
 - (ii) how to use the product or service; and
 - (iii) the performance of the product or service; and
 - (iv) the suitability of the product or service for the person or the person's premises; and
 - (v) any applicable product service recommendations and requirements; and
 - (vi) the warranty that applies to the product or service and the installation works (if any); and
 - (vii) if the prescribed activity involves the replacement of a product, the decommissioning procedures that apply in relation to the product to be replaced.

15 Provision of other information

- (1) An accredited person or scheme participant carrying out lead generation or marketing activities for a prescribed activity must give a person all information necessary and appropriate to enable the person to make an

informed decision in relation to the undertaking of the prescribed activity.

Examples

The accredited person or scheme participant must give a person any quotes, invoices or data sheets relevant to the prescribed activity.

- (2) If an accredited person or scheme participant provides a person with indicative values rather than a quote for undertaking a prescribed activity, the accredited person or scheme participant must ensure that the person understands that a final quote has not been given.

Part 4—Contract requirements

16 Application of Part

An accredited person or scheme participant carrying out a prescribed activity for an energy consumer must comply with this Part before carrying out the prescribed activity for the energy consumer or entering into a contract with the energy consumer for the supply of the prescribed activity, whichever is earlier.

17 Statement of rights

Before entering into a contract with an energy consumer for the supply of a prescribed activity for a residential premises, an accredited person or scheme participant must ensure that the energy consumer is given a statement of the energy consumer's rights and obligations in relation to the contract, including rights and obligations under—

- (a) the Act; and

- (b) the VEET Regulations; and
- (c) this code of conduct; and
- (d) the Australian Consumer Law (Victoria).

18 Terms and conditions

- (1) Before entering into a contract with an energy consumer for the supply of a prescribed activity for a residential premises, an accredited person or scheme participant must ensure that the energy consumer is given clear and accurate information about the terms and conditions of the contract relating to the undertaking of the prescribed activity.
- (2) For the purposes of subclause (1), the information must include the following (if applicable)—
 - (a) standard fees and charges;
 - (b) payment terms;
 - (c) any consequences for failure to meet the payment terms;
 - (d) any applicable cooling off periods.
- (3) Information about cooling off periods required under subclause (2)(d) must be provided in the manner required by the Australian Consumer Law (Victoria), if applicable.

19 Consent to prescribed activity

Before entering into a contract with an energy consumer for the supply of a prescribed activity for a residential premises, an accredited person or scheme participant must ensure that the energy consumer—

- (a) has been informed of and understands the prescribed activity to be undertaken; and
- (b) consents to the undertaking of the prescribed activity.

20 Scheduling

- (1) An accredited person or scheme participant must ensure that a contract for the supply of a prescribed activity sets out the scheduling of the undertaking and completion of the prescribed activity.
- (2) For the purposes of subclause (1), the undertaking and completion of a prescribed activity includes all installation, replacement and decommissioning activities.

21 Information about the person who is to undertake the prescribed activity

A person undertaking a prescribed activity or any part of a prescribed activity for an energy consumer must ensure that the energy consumer is provided with the following information—

- (a) the person's full name;
- (b) the person's business telephone number;
- (c) the person's business email address;
- (d) in the case of a scheme participant undertaking the prescribed activity on behalf of an accredited person, the name of the accredited person on whose behalf the scheme participant is undertaking the prescribed activity.

Part 5—Undertaking prescribed activities

22 Responsibility in relation to minors at residential premises

An accredited person or scheme participant undertaking a prescribed activity for an energy consumer for a residential premises must leave the premises immediately on establishing that no person of or over 18 years of age is present at the premises.

23 Notice to residents

- (1) An accredited person or scheme participant must not undertake a prescribed activity at a residential premises for an energy consumer unless the accredited person or scheme participant has taken reasonable steps to give reasonable notice of the prescribed activity to a resident of each residential premises that is likely to be directly affected by the prescribed activity.
- (2) The notice must specify—
 - (a) the nature of the proposed prescribed activity; and
 - (b) the date and time that the prescribed activity is to be undertaken; and
 - (c) the essential services (if any) that may be affected by undertaking the prescribed activity; and
 - (d) the energy consumer on whose behalf the prescribed activity is undertaken; and

- (e) the full name of the accredited person or contractor (other than a subcontractor) of an accredited person—
 - (i) who is undertaking the prescribed activity; or
 - (ii) on whose behalf the scheme participant is undertaking the prescribed activity; and
 - (f) a business telephone number for the person referred to in paragraph (e); and
 - (g) a business email address for the person referred to in paragraph (e).
- (3) For the purposes of subclause (1), premises may be *directly affected* by a prescribed activity if the prescribed activity will affect—
- (a) essential services to the premises; or
 - (b) access to the premises.

24 Time of undertaking prescribed activity

- (1) An accredited person or scheme participant undertaking a prescribed activity must ensure that all reasonable steps are taken to commence, undertake and complete the prescribed activity on the dates and at the times agreed with the energy consumer.
- (2) For the purposes of subclause (1), the undertaking and completion of a prescribed activity includes all installation, replacement or decommissioning activities.
- (3) The accredited person or scheme participant undertaking the prescribed activity must ensure that the energy consumer is advised as soon as practicable if a prescribed activity

cannot be undertaken and completed on the dates and times agreed with the energy consumer.

25 Prescribed activity to be undertaken in accordance with VEET Regulations and Secretary's specifications

An accredited person or scheme participant undertaking a prescribed activity must ensure that the prescribed activity is undertaken in accordance with—

- (a) the VEET Regulations; and
- (b) the Secretary's specifications.

26 Information at completion of prescribed activity

On completion of a prescribed activity, the accredited person or scheme participant who completed the prescribed activity must give the energy consumer the following information—

- (a) the name, telephone number and email address of the accredited person who completed the prescribed activity or on whose behalf the prescribed activity was completed; and
- (b) if applicable, the name, telephone number and email address of any scheme participant who undertook the prescribed activity or part of the prescribed activity; and
- (c) the dispute resolution information relating to the prescribed activity; and
- (d) if applicable, a copy of the manufacturer's instructions and warranty for a product supplied or

installed by the accredited person or
scheme participant.

Part 6—Non-complying products or services

27 Non-complying products or services

- (1) This clause applies if an accredited person becomes aware at any time that a product or service supplied to an energy consumer as part of the undertaking of a prescribed activity does not comply with the requirements of the following as they applied at the time of installation—
 - (a) the VEET Regulations;
 - (b) the Secretary's specifications;
 - (c) the Australian Consumer Law (Victoria).
- (2) The accredited person must ensure that immediate steps are taken to notify an energy consumer of the failure to comply with a requirement in relation to a product or service supplied to the energy consumer.
- (3) If a product or service to which this clause applies is fixed or replaced, the accredited person must ensure that the product or service as fixed or replaced complies with the requirements of the following in relation to the prescribed activity—
 - (a) the VEET Regulations;
 - (b) the Secretary's specifications.

Part 7—Dispute resolution framework

28 Dispute resolution framework

- (1) An accredited person must ensure that a clear and effective framework is in place to deal with consumer complaints concerning the conduct of—
 - (a) the accredited person; and
 - (b) any scheme participants carrying out a regulated action for or on behalf of the accredited person; and
 - (c) any other person carrying out a regulated action in relation to a prescribed activity for which the accredited person will be creating a certificate.
- (2) The framework must cover consumer complaints concerning the conduct of the accredited person and scheme participants in any of the following—
 - (a) the carrying out of a regulated action;
 - (b) the scheduling of the prescribed activity;
 - (c) the creation of certificates for the prescribed activity.
- (3) The framework must include—
 - (a) an accessible internal dispute resolution process to deal with consumer complaints, including provision for a complaint to be brought on behalf of a consumer; and

- (b) the provision to consumers of information about the internal dispute resolution process; and
- (c) the provision to consumers of the following information if the internal dispute resolution process does not resolve the complaint—
 - (i) the Consumer Affairs Victoria website (www.consumer.vic.gov.au); and
 - (ii) information about ESC dispute resolution and support services, including relevant ESC telephone numbers; and
 - (iii) information about any other external dispute resolution processes that may be available to them; and
- (d) if a complaint does not relate to a matter covered by the framework, the provision to consumers of—
 - (i) information about the appropriate person or body to handle the complaint; and
 - (ii) assistance to contact that person or body, and cooperation with that person or body to resolve the complaint, if possible.

29 Handling of complaints under dispute resolution framework

An accredited person must ensure that consumer complaints under the internal dispute resolution process are handled in a timely and fair manner, including by ensuring that—

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- (a) a complaint is acknowledged within 5 business days after it is received; and
 - (b) all reasonable steps are taken to complete the internal dispute resolution process within 20 business days after the date on which the complaint is received.'
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Endnotes

¹ Reg. 4: S.R. No. 145/2018 as amended by S.R. Nos 145/2018, 142/2020, 97/2021, 153/2021 and 171/2021.

² Sch. 6 cl. 1 def. of *VEET Regulations*: S.R. No. 46/2017 as amended by S.R. Nos 145/2018 and 175/2018.