

NERL small compensation claims regime (Small Claims Scheme) summary

1. What is the Small Claims Scheme?

The Small Claims Scheme is designed to provide small customers with small claims a low cost and effective way to obtain compensation for damage to their property without needing to demonstrate that SA Power Networks is at fault, negligent or has acted in bad faith.¹

SA Power Networks has worked with the South Australian Government to implement the Small Claims Scheme so that there is clarity as to what incidents and loss will be covered by the Small Claims Scheme in South Australia.

2. What events and circumstances are covered by the Small Claims Scheme?

A claim may be made in respect of a 'claimable incident' which is defined for small customers in South Australia as a failure of electricity infrastructure² owned or operated by SA Power Networks where the failure causes a relevant voltage variation, provided that the failure is not caused (whether wholly or partly) by any of the following:³

- lightning, storm, earthquake, flood, fire or another natural event;
- a third party, or property of a third party, damaging the electricity infrastructure; or
- fauna or flora coming into contact with the electricity infrastructure.

A 'relevant voltage variation' occurs when there is a change in the voltage of electricity supplied to a small customer's premises outside the standard voltage range determined by SA Power Networks, and approved by the Technical Regulator, from time to time. The approved standard voltage range is available on our website at the following link: [Voltage Variations - SA Power Networks](#)

To assist in understanding what this means, the following table sets out examples of events and circumstances that are not claimable incidents:

Events or circumstances that are <u>not claimable incidents</u>
a. Damage caused by you or by a fault on your electrical installation. b. Lightning striking poles and wires and causing a surge. c. Flora or fauna falling onto or contacting power lines. d. Impact on supply caused by a falling tree or part of a tree (unless the tree was located inside the prescribed clearance zone around powerlines). e. a truck or car hitting a pole. f. A voltage variation caused by a your solar or battery system, or other equipment g. A contractor striking, cutting or contacting an underground or overhead power cable.

If a claim is made in relation to an event or circumstance on another distribution network, SA Power Networks will refer that claim to the distributor that operates that network.

¹ The Small Claims Scheme is as set out in Part 7 of the National Energy Retail Law (NERL). The NERL is contained in the Schedule to the *National Energy Retail Law (SA) Act 2011* (SA).

² 'Electricity infrastructure' has the meaning given in the *Electricity Act 1996* (SA).

³ NERL s 178 and 187, and *National Energy Retail Law (Local Provisions) Regulations 2013* (SA) (NERL Local Regulations) reg 13A(1) and (7).

3. When will the Small Claims Scheme apply?

The Small Claims Scheme will commence operation on 13 March 2025 (**commencement date**)⁴ following which a claim may be made in relation to a claimable incident occurring:

- between 1 July 2022 and the commencement date (**historical incident**); and
- on and from the commencement date.

Where a claim relates to a historical incident, it does not matter if a claim has or has not been previously made under SA Power Networks' separate negligence and bad faith regime, provided that the customer has not already been compensated for the incident.

Further, claims in relation to historical incidents must be made within 2 years after the date on which the Small Claims Scheme comes into operation (i.e. 13 March 2027).

4. What loss or damage is covered by the Small Claims Scheme?

Compensation is payable for property damage caused by a claimable incident but excludes specified non compensable matters.⁵

To assist in understanding what this means, the following table sets out the loss or damage that is not compensable under the Small Claims Scheme:

Loss or damage that is <u>not compensable</u> under the Small Claims Scheme
a. Death
b. Personal injury (including pre-natal injury, the impairment of the person's physical or mental condition and any disease)
c. Economic loss (such as loss of profit or revenue or loss of wages / salary)
d. Damage to, loss or destruction of intangible property (such as loss of goodwill)

5. What are the monetary limits on amounts that can be claimed under the Small Claims Scheme?

Compensation is only payable where the amount claimed is more than the 'minimum amount' and less than the 'maximum amount'.⁶

The 'maximum amount' is prescribed for small customers in South Australia as \$15,000.⁷

The 'minimum amount' is prescribed for small customers in South Australia as \$100.⁸

If a claim for more than the maximum amount is made, SA Power Networks will advise the small customer that it will revise the claim to reduce it so that it does not exceed the maximum amount if the customer so requests within a specified period of at least 5 business days, otherwise SA Power Networks will reject the claim. If the small customer makes the request within the specified period, SA Power Networks will revise the claim accordingly.⁹

In making such a request, the small customer will need to be aware that if it is compensated under the Small Claims Scheme in respect of a claimable incident, it will not be able to make any further claim in respect of that

⁴ National Energy Retail Law (Local Provisions (Small Compensation Claims Regime) Amendment Regulations 2024 reg 2.

⁵ NERL s 179, 191(1)(d) and 192(1)(d).

⁶ NERL s 188 and 189.

⁷ NERL s 180, and NERL Local Regulations reg 13A(3).

⁸ NERL s 181, and NERL Local Regulations reg 13A(4).

⁹ NERL s 189(1).

incident – see **Section 14** for further details. For this reason, it may be more appropriate for a customer to make a claim under SA Power Networks’ negligence and bad faith claims regime where the claim is for an amount that exceeds the maximum amount or includes loss or damage not covered by the Small Claims Scheme.

6. Who can make a claim under the Small Claims Scheme?

A claim can only be made by a ‘small customer’ receiving customer connection services from SA Power Networks (i.e. a connection customer of SA Power Networks that is either a residential customer or business customer who consumes energy at business premises of no more than 160MWh in South Australia).¹⁰ This means, by way of example, that the following person(s) that do not have a connection contract with SA Power Networks will not be able to make a claim under the Small Claims Scheme:

- owners or landowners of a premises (where the tenant is the connection customer);
- other occupiers of a premises; and
- embedded network customers (including those in apartment buildings, shopping centres and any other commercial or residential developments that have their own embedded networks).

A claim may, however, include property damage not owned by the small customer.¹¹

A small customer can only submit one claim in respect of an incident under the Small Claims Scheme, and once such a claim is made no further claim is able to be made in respect of the incident under either scheme and will be rejected.

7. How many claims can be made under the Small Claims Scheme?

A small customer may make a claim in relation to each claimable incident that occurs in relation to a premises.¹² However, where:

- a small customer making a claim is a ‘repeat claimant’;
- SA Power Networks would otherwise be liable to pay compensation under the Small Claims Scheme; and
- SA Power Networks reasonably considers the claim forms part of an abuse of the Small Claims Scheme,

SA Power Networks may reject the claim or pay a lesser amount than claimed (which may be any amount at or above the minimum amount).¹³

A ‘repeat claimant’ is a small customer that makes more than the maximum number of claims determined from time to time by the AER and notified to SA Power Networks by reference to a particular period or periods. Once a small customer is a repeat claimant, it will continue to be so until the end of 2 periods after becoming a repeat claimant.¹⁴

8. How can a claim be made under the Small Claims Scheme?

A small customer must provide SA Power Networks with a completed claim form to make a claim.¹⁵ A copy of SA Power Networks’ claim form is available for download on our website at the following link: [Damage claims - SA Power Networks](#)

¹⁰ NERL s 187(1).

¹¹ NERL s 187(5).

¹² NERL s 187(1).

¹³ NERL s 193.

¹⁴ NERL s 183.

¹⁵ NERL s 187(1) and (2).

Only one claim can be made in respect of a claimable incident, but a small customer may, with SA Power Networks' concurrence, substitute a revised claim (which is then taken to be the only claim made by the customer). SA Power Networks may reject claims other than the first claim received from a customer.¹⁶

If SA Power Networks is not able to confirm that a claimable incident involving property damage did affect the customer's premises in the manner claimed in the claim form, SA Power Networks may request the customer to provide a statement from a suitability qualified person (e.g. electrician) that the damage was caused by or is consistent with a claimable incident having occurred.¹⁷

9. What amounts can be included in a claim under the Small Claims Scheme?

A claim must include the amount of compensation that a customer claims to be necessary to compensate the customer in respect of a compensable matter¹⁸ – see **section 3** for further details.

However, a claim for property damage can only reflect the cost of replacing or repairing the property with property of substantially the same age, functionality and appearance.¹⁹ That is, the cost of replacing or repairing property with 'like for like' not the cost of replacing 'old for new' or repairing property to the condition it was in when it was purchased by the customer.

By way of example, if a refrigerator that is 5 years old is damaged by a claimable incident, then the claim can only include the cost of replacing that refrigerator with a refrigerator of the same age and condition, or repairing that refrigerator to the condition it was in before it was damaged.

If a claim for compensation is paid under the Small Claims Scheme, SA Power Networks will also pay any reasonable costs incurred in providing any quotes or evidence to SA Power Networks (including the cost of obtaining a statement from a qualified person that is required by SA Power Networks).²⁰

10. How will SA Power Networks assess claims?

SA Power Networks will use best endeavours to deal with claims in a timely manner.²¹

Where a claim is between the minimum amount and 'median amount' (i.e. in the 'mandatory range'), SA Power Networks will pay the amount claimed without reducing or disputing the amount after it confirms that:²²

- a completed claim form and (if requested) a statement from a qualified person have been received;
- the amount claimed is within the mandatory range;
- it is established that the claimable incident occurred;
- it is established that the claim is a compensable matter; and
- the claim is not made by a repeat claimant.

Where a claim is between the 'median amount' and the maximum amount (i.e. in the 'discretionary range'), SA Power Networks will confirm the above matters and may carry out its own assessment of the claim and make reasonable requests for other information and evidence for the purpose of determining the claim. SA Power Networks may then pay the amount claimed or a lesser amount where it is sufficient to compensate the

¹⁶ NERL s 187(3) and (4).

¹⁷ NERL s 190.

¹⁸ NERL s 187(2)(e).

¹⁹ NERL s 187(2)(f).

²⁰ NERL s 194.

²¹ NERL s 187(7).

²² NERL s 191.

customer in relation to the claimable event and premises concerned so that they are no worse off in having property damage replaced or repaired on a 'like for like' basis.²³

Where a claim is made by a business customer, SA Power Networks is not obliged to compensate that business customer above the 'median amount' where reasonable precautions have not been taken to minimise the risk of property damage.²⁴ SA Power Networks' Service & Installation Rules set out the reasonable precautions that will need to be taken by a business customer for electrical installations connected to SA Power Networks' distribution network. A copy of the Service & Installation Rules is available on our website at the following link: [Service & Installation Rules - SA Power Networks](#)

The 'median amount' is prescribed by for small customers in South Australia as \$1,000.²⁵

11. How will compensation be paid under the Small Claims Scheme?

Unless a customer elects to be paid directly by cheque or EFT, SA Power Networks will (as soon as practicable) make arrangements with the customer's retailer to pay the compensation as a credit on the next electricity bill that the customer receives from its electricity retailer.²⁶

SA Power Networks has no control over how long the retailer may take to process a credit paid by SA Power Networks. Customers should consider this carefully when electing a payment method as it may take several months for a retailer to finalise a credit, depending on the billing cycle.

12. When can SA Power Networks reject a claim under the Small Claims Scheme?

SA Power Networks may reject a claim where it reasonably believes:²⁷

- a claimable incident covered by the Small Claims Scheme has not occurred – refer to **section 2**;
- property damage covered by the Small Claims Scheme has not occurred or does not exist – refer to **section 4**;
or
- there are other grounds warranting rejection (e.g. a claim form has not been properly completed (which may be the case where the form includes a claim for property damage that does not reflect the cost of replacing or repairing the property with property of substantially the same age, functionality and appearance), or the claim is for an amount below the minimum amount or above the maximum amount).

If SA Power Networks rejects a claim or pays an amount less than the amount claimed, SA Power Networks will, as soon as reasonably practicable, provide reasons for that decision and inform the customer of their complaint and dispute rights if they are dissatisfied.²⁸

13. What complaint or dispute rights does a customer have in relation to a claim for compensation under the Small Claims Scheme?

A small customer who is dissatisfied with a decision made by SA Power Networks may lodge a complaint with the Energy and Water Ombudsman SA.²⁹

14. What are the consequences of making a claim under the Small Claims Scheme?

²³ NERL s 190(4) and 192.

²⁴ NERL s 192(5).

²⁵ NERL s 182, and NERL Local Regulations reg 13A(5).

²⁶ NERL s 198.

²⁷ NERL s 195.

²⁸ NERL s 196.

²⁹ NERL s 197.

If a small customer is compensated for property damage (whether as a result of a decision made by SA Power Networks or the Energy and Water Ombudsman SA) in respect of a claimable incident that affected particular premises:³⁰

- the customer cannot make any further claim (under the Small Claims Scheme or otherwise) against SA Power Networks in respect of that incident as affecting those premises;
- the customer cannot commence or maintain proceedings for damages in respect of that incident as affecting those premises; and
- SA Power Networks has no further liability (under the Small Claims Scheme or otherwise) to that customer in respect of that incident as affecting those premises.

In deciding to make a payment of compensation under the Small Claims Scheme, SA Power Networks does not admit fault, negligence or bad faith in respect of the claimable incident concerned.³¹

15. If an incident occurs, is the Small Claims Scheme the only avenue for a claim to be made against SA Power Networks or are there other options available?

SA Power Networks has a separate negligence and bad faith claims regime which will be maintained to provide customers with an avenue for claims in relation to incidents or loss that are not covered by the Small Claims Scheme and where SA Power Networks is at fault, negligent or has acted in bad faith.

A small customer may decide to make a claim under the negligence and bad faith claims regime or enforce any other rights it may have in respect of an incident instead of making a claim under the Small Claims Scheme.

If a customer does enforce or attempt to enforce these other rights, SA Power Networks will not be obliged to deal with a claim made under the Small Claims Scheme and may reject a claim that has been made.³² We also note that those other rights will be subject to the terms of the customer's connection contract with SA Power Networks.

³⁰ NERL s 199.

³¹ NERL s 201.

³² NERL s 200.