



Heat Networks (Scotland) Act 2021

2021 asp 9

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 23rd February 2021 and received Royal Assent on 30th March 2021

An Act of the Scottish Parliament to make provision for regulating the supply of thermal energy by a heat network, and for regulating the construction and operation of a heat network; to make provision about the powers of persons holding a heat networks licence; to make provision about conferring rights in heat network assets where a person ceases operating a heat network; to set targets relating to the supply of thermal energy by heat networks; to make provision about plans relating to increased use of heat networks; and for connected purposes.

PROSPECTIVE

PART 1

HEAT NETWORKS LICENCES

Introductory

1 Meaning of “heat network”

- (1) In this Act, a “heat network” means—
 - (a) a district heat network, or
 - (b) a communal heating system.
- (2) A district heat network is a network by which thermal energy is distributed from one or more sources of production to more than one building.
- (3) A communal heating system is a system by which thermal energy is distributed from one or more sources of production to one building comprising more than one building unit.
- (4) For the purposes of subsection (2) or (3), where the main purpose of a source of production is to provide thermal energy to a district heat network or (as the case may be) a communal heating system, the source of production forms part of the district heat network or (as the case may be) the communal heating system.

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Changes to legislation: There are currently no known outstanding effects for the Heat Networks (Scotland) Act 2021. (See end of Document for details)

- (5) In this Act, “thermal energy” means heating, cooling or hot water.
- (6) In subsection (3), “building unit” means part of a building that is designed or altered to be used separately.
- (7) The Scottish Ministers may by regulations—
 - (a) modify the meaning in this section of “heat network”, “district heat network”, “communal heating system” or “thermal energy”,
 - (b) further define the meaning of any of those terms.

2 Requirement for heat networks licence

- (1) A person must not supply thermal energy by means of a heat network unless the person holds a heat networks licence.
- (2) A person who contravenes subsection (1) commits an offence.
- (3) It is a defence for a person charged with an offence under subsection (2) to show that the person had a reasonable excuse for contravening subsection (1).
- (4) A person who commits an offence under subsection (2) is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum,
 - (b) on conviction on indictment, to a fine.
- (5) In this Act, “heat networks licence” means a heat networks licence issued under section 5(5).

3 Exemptions from requirement for heat networks licence

- (1) The Scottish Ministers may by regulations provide that the requirement imposed by section 2(1) does not apply—
 - (a) in circumstances specified in the regulations,
 - (b) in relation to heat networks of a description specified in the regulations.
- (2) The Scottish Ministers may direct that the requirement imposed by section 2(1) does not apply—
 - (a) to—
 - (i) a person specified by name in the direction,
 - (ii) persons of a description specified in the direction,
 - (b) in relation to heat networks of a description specified in the direction.
- (3) Where the Scottish Ministers issue a direction under subsection (2), they must—
 - (a) do so in writing, and
 - (b) publish the direction in such manner as they consider appropriate.
- (4) The Scottish Ministers may grant an exemption by regulations under subsection (1) or by a direction under subsection (2)—
 - (a) either—
 - (i) indefinitely, or
 - (ii) for a period specified in the regulations or the direction,
 - (b) either—
 - (i) unconditionally, or

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(ii) subject to conditions specified in the regulations or the direction.

- (5) The Scottish Ministers may revise or revoke a direction under subsection (2).
- (6) Subsection (3) applies to the revision or revocation of a direction under subsection (2) as it applies to such a direction.
- (7) Regulations under subsection (1), or a direction under subsection (2), may make different provision for different areas.

4 Meaning of “licensing authority”

In this Act, the “licensing authority” means—

- (a) the Scottish Ministers, or
- (b) such other person as the Scottish Ministers by regulations designate as the licensing authority for the purposes of this Act.

Heat networks licence applications

5 Heat networks licence applications

- (1) A person may apply to the licensing authority for a heat networks licence.
- (2) An application under subsection (1) is referred to in this Part as a “heat networks licence application”.
- (3) The licensing authority may grant a heat networks licence application only if it is satisfied that the applicant has the ability to perform the activities that would be authorised by the licence.
- (4) In assessing an applicant's ability to perform those activities, the licensing authority must have regard to the following matters (in so far as relevant to the performance of those activities)—
- (a) the applicant's knowledge, expertise and experience,
 - (b) the applicant's ability to operate a heat network in a manner that—
 - (i) minimises greenhouse gas emissions (within the meaning of the Climate Change (Scotland) Act 2009) from the heat network,
 - (ii) takes account of the just transition principles (within the meaning of section 35C of that Act), and
 - (iii) contributes to meeting the fuel poverty targets, and
 - (c) such other matter as the Scottish Ministers may by regulations specify.
- (5) As soon as practicable after granting a heat networks licence application, the licensing authority must issue the licence to the applicant.
- (6) Where the licensing authority proposes to refuse a heat networks licence application, it must give the applicant notice—
- (a) stating that it proposes to refuse the application,
 - (b) stating the reasons why it proposes to refuse the application, and
 - (c) specifying the period (which is to be not less than 28 days from the date on which the notice is given) within which the applicant may make representations about the proposed refusal to the licensing authority.

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- (7) As soon as practicable after refusing a heat networks licence application, the licensing authority must notify the applicant of the refusal.

Conditions of heat networks licence

6 Heat networks licence standard conditions

- (1) The licensing authority must determine conditions relating to the obligations of persons holding heat networks licences.
- (2) In this Part, the conditions determined under subsection (1) are referred to as the “standard conditions”; and references to the standard conditions include those conditions as they may be modified from time to time under section 7(2)(b)(i).
- (3) The standard conditions may in particular—
 - (a) include standard conditions that are to apply to—
 - (i) all heat networks licences,
 - (ii) heat networks licences of a particular description,
 - (b) make provision for—
 - (i) the standard conditions (or any of them) not to apply to a particular heat networks licence or heat networks licences of a particular description in such circumstances as may be specified in the standard conditions,
 - (ii) the coming into effect and suspension of the standard conditions (or any of them) in such manner and in such circumstances as may be specified in the standard conditions,
 - (c) include conditions relating to the standards of service to be provided by the person holding a heat networks licence.
- (4) Subject to subsection (5), each heat networks licence has incorporated in it by reference such of the standard conditions as are applicable to it.
- (5) The licensing authority may, in granting a particular heat networks licence application, exclude or modify any of the standard conditions to such extent as it considers appropriate in the circumstances of the case.
- (6) Before making any modification under subsection (5), the licensing authority must give notice of the proposed modification to the applicant of the particular heat networks licence application.
- (7) The notice must—
 - (a) state the reasons why the modification is proposed, and
 - (b) specify the period (which is to be not less than 28 days from the date on which the notice is given) within which the applicant may make representations about the proposed modification to the licensing authority.
- (8) In determining the standard conditions under subsection (1), the licensing authority must have regard in particular to—
 - (a) the interests of users of thermal energy supplied by means of a heat network,
 - (b) the desirability of furthering or promoting the reduction of greenhouse gas emissions (within the meaning of the Climate Change (Scotland) Act 2009) from the operation of heat networks,

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- (c) the desirability of furthering or promoting the use by heat networks of—
 - (i) thermal energy generated from renewable sources,
 - (ii) waste heat or cold.

(9) In subsection (8)(c)(ii), “waste heat or cold” means heat or cold generated as a result of a use of (or process affecting) land, which would disperse unused if released into air or water.

7 Heat networks licence standard conditions: supplementary

- (1) The licensing authority must publish the standard conditions.
- (2) The licensing authority—
 - (a) must from time to time review the standard conditions, and
 - (b) may—
 - (i) modify the standard conditions, and
 - (ii) make any modification of the conditions of any heat networks licence it considers appropriate as a consequence of any modification of the standard conditions.
- (3) Before making any modification under subsection (2)(b), the licensing authority must—
 - (a) give notice of the proposed modification to every person who holds a heat networks licence whose licence would be affected by the modification, and
 - (b) publish the notice.
- (4) The notice must—
 - (a) state the reasons why the modification is proposed, and
 - (b) specify the period (which is to be not less than 28 days from the date of publication of the notice) within which representations about the proposed modification may be made to the licensing authority.
- (5) Where the licensing authority modifies the standard conditions, it must publish the standard conditions as modified.

8 Heat networks licence special conditions

- (1) In addition to the standard conditions, the licensing authority may include in a heat networks licence any special conditions (whether or not relating to the activities to be authorised by the licence) it considers appropriate.
- (2) The licensing authority may provide in a heat networks licence that a special condition of the licence—
 - (a) has effect or ceases to have effect, or
 - (b) may be modified,at such time, in such manner and in such circumstances as the licensing authority considers appropriate.