

Heat Networks (Scotland) Bill

AMENDMENTS TO BE MOVED AT STAGE 2

Clause 2, page 2, line 10, at end insert—

< section 2(1) does not apply to a person who supplies thermal energy from a source of production only to any person who:

(a) holds a heat networks licence; or

(b) is exempt from the requirement for a heat network licence under regulations made under section 3(1) or a direction made under section 3(2).>

Effect

The amendment clarifies that a person who supplies heat energy onto a heat network such as a biomass power plant or energy from waste plant would not require to obtain a heat network licence.

Reason

The key activity under the Bill to be licensed is the operation of the network and the supply of energy to customers (i.e. the supply to premises per the Electricity Act 1989). A heat network licence would not seem to be appropriate for a person who supplies heat energy onto a heat network such as a biomass powerplant or energy.

Section 1(4) of the Bill states that in some circumstances the heat production source is included as part of the heat network. This is appropriate. However, this creates a risk that a supplier of heat from such a heat production source (e.g. a biomass powerplant) onto a heat network would require to be licensed under section 2(1) of the Bill.

The key activity to be licensed is the operation of the network and the supply of energy to customers. A heat network licence is not appropriate for a person who supplies heat energy onto a heat network operated by someone else. This amendment clarifies the Bill to ensure that persons who make these supplies onto a heat network do not need to be licensed.

Heat Networks (Scotland) Bill

AMENDMENTS TO BE MOVED AT STAGE 2

Clause 14, page 8, line 8, at end insert–

< prior to the publication of any such guidance under subsection (1), Scottish Ministers must undertake consultation in relation to such guidance.>

Effect:

Consultation should be required with regard to any guidance to be issued by Scottish Ministers.

Reason

This amendment has the effect of ensuring that there is consultation prior to such guidance being issued.

Heat Networks (Scotland) Bill

AMENDMENTS TO BE MOVED AT STAGE 2

Clause 17, page 8, line 37, at end insert -

<This does not apply to any person acting on behalf of a person –

- a) holding a heat network consent relating to the construction of the heat network or*
- b) operating a network on behalf of a person holding a heat network consent relating to the operation of the heat network.>*

Effect

The amendment clarifies that that contractors working on behalf of a person holding or operating a heat network consent are exempt.

Reason

Section 17(1) of the Bill prohibits "a person" from constructing or operating a heat network unless "that person" holds a heat network consent for the construction or operation of the heat network. This amendment clarifies to allow where contractors (or multiple contractors) to operate where they are constructing a network for an owner/ operator.

Heat Networks (Scotland) Bill

AMENDMENTS TO BE MOVED AT STAGE 2

Clause 30, page 14, line 3, at end insert-

< An enforcement authority under subsection (1) cannot serve a written notice where a *person is acting on behalf of a person -*

*(a) holding a heat network consent relating to the construction of the heat network or
(b) operating a network on behalf of a person holding a heat network consent relating to the operation of the heat network.>*

Effect

The amendment clarifies that contractors working on behalf of a person holding or operating a heat network consent are not subject to enforcement processes.

Reason

Section 17(1) of the Bill prohibits "a person" from constructing or operating a heat network unless "that person" holds a heat network consent for the construction or operation of the heat network. This amendment clarifies to allow where contractors (or multiple contractors) to operate where they are constructing a network for an owner/ operator. These are similar concerns in relation to possible grounds for enforcement.

Heat Networks (Scotland) Bill

AMENDMENTS TO BE MOVED AT STAGE 2

Clause 33, page 14, line 31, leave out subsection (1) and insert-

< If at any time after the end of the period for compliance with an enforcement notice:

(a) any step required by the notice has not been taken, or

(b) any activity required by the notice to cease is being carried on,

the person to whom the notice was given is in breach of the notice.

(i) If the person to whom the breach of the notice was given is in breach of that notice the person commits an offence.>

Effect

This amendment ensures that non-compliance with a notice is a breach of the notice with non-compliance with a notice being the commission of the offence.

Reason

Section 33 of the Bill creates criminal offences. Non-compliance with a notice is a breach should comprise the offence. This replicates section 136 of the Town and Country Planning (Scotland) Act 1997.

Heat Networks (Scotland) Bill

AMENDMENTS TO BE MOVED AT STAGE 2

Clause 48, page 22, line 34, at end insert—

< the conditions or limitations that may be applied to a heat network zone permit by the permit authority >

Effect

The amendment ensures that regulations also take account of the conditions or limitations being applied to the heat network zone permit.

Reason

The Bill refers to heat network zone permits being awarded by means of a competitive process which is to be developed in regulations. These permits will be issued subject to detailed conditions from the permit authority that require compliance with these conditions. The regulations making power should include these heat network permit conditions as well as the powers to modify such conditions and revoke permits if these conditions are not complied. These provisions are not included in the Bill.

Heat Networks (Scotland) Bill

AMENDMENTS TO BE MOVED AT STAGE 2

Clause 49, page 23, line 3, at end insert-

< ***Modification of heat network zone permit***

- (1) *The Scottish Ministers may by regulations make provision for or about the process for modifying a heat network zone permit.*
- (2) *Regulations under subsection (1) may in particular make provision about*
 - (a) *how the permit authority is to make modifications to a heat network zone permit,*
 - (b) *the form and manner of making a modification to a heat network zone permit,*
 - (c) *the information (including the information in the form of a document) that must be included in a modification of a heat network zone permit,*
 - (d) *publication or notification of modification for a heat network zone permit,*
 - (e) *publication or notification of the permit authority's decision whether or not to grant a modification of a heat network zone permit,*
 - (f) *publication or notification of a modification to heat network zone permit.>*

Effect

The amendment ensures that regulations can be made to modify heat network zone permits.

Reason

The Bill refers to heat network zone permits being awarded by means of a competitive process which is to be developed in regulations. These permits will be issued subject to detailed conditions from the permit authority that require compliance with these conditions.

The regulations making power should include these heat network permit conditions as well as the powers to modify such conditions and revoke permits if these conditions are not complied. These provisions are not included in the Bill.

Heat Networks (Scotland) Bill

AMENDMENTS TO BE MOVED AT STAGE 2

Clause 50, page 23, line 9, at end insert-

<or

() if the person has failed to comply with a condition of the heat network zone permit>

Effect

The amendment ensures that a heat network zone permit can be revoked where there is a failure to comply with a condition of the heat network zone permit.

Reason

The Bill refers to heat network zone permits being awarded by means of a competitive process which is to be developed in regulations. These permits will be issued subject to detailed conditions from the permit authority that require compliance with these conditions. The regulations making power should include these heat network permit conditions as well as the powers to modify such conditions and revoke permits if these conditions are not complied. These provisions are not included in the Bill.

