

HEAT NETWORKS (SCOTLAND) ACT 2021

EXPLANATORY NOTES

THE ACT

Overview

Part 4 – Heat network zone permits

Section 55: Meaning of “permit authority”

128. This section defines “permit authority” as the Scottish Ministers or such other person as the Scottish Ministers may by regulations designate.

Section 56: Requirement for heat network zone permit

129. Subsection (1) provides that the permit authority may by notice provide that a person may only operate a heat network in a heat network zone if the person or a person on whose behalf the heat network is operated holds a heat network zone permit.
130. Subsection (2) clarifies that any notice prohibiting the operation of a heat network without a heat network zone permit for the area may not require a person to hold a permit if that person was entitled to operate a heat network in the area immediately before the notice takes effect. A person is entitled to operate a heat network if at that time they hold a heat network consent in relation to the operation of the heat network, or they are exempt from the requirement to hold a heat network consent in relation to the operation of the heat network by virtue of regulations under section 19(1) (subsection 3). A permit authority may also revoke a notice (subsection (5)). The permit authority may not issue or revoke a notice except in certain circumstances, or when certain procedures have not been complied with. These procedures and circumstances may be specified in regulations made by the Scottish Ministers (subsections (4), (6) and (8)). The permit authority must publish a notice and give notice of the revocation in such form and manner as may be specified in regulations made by the Scottish Ministers (subsection (7)). Subsection (9) clarifies that “heat network zone permit” is a permit issued by the permit authority.

Section 57: Applications for heat network zone permit

131. Subsection (1) allows the Scottish Ministers by regulations to make provision for inviting, making and determining applications for a heat network zone permit. Subsection (2) sets out what regulations under subsection (1) may make provision for, including how the permit authority is to invite applications for permits, the persons who may apply for a permit and the form and manner of making an application. The regulations may make different provision for different heat network zones (subsection (3)).

Section 58: Heat network zone permit: duration

132. Section 58 provides that a heat network zone permit continues to have effect for the period specified in it unless it is revoked, in accordance with section 59.

Section 59: Heat network zone permit: revocation

133. Subsection (1) allows the permit authority to revoke a heat network zone permit if the heat networks licence held by the person is revoked, if a heat network consent in relation to the operation of a heat network situated in the heat network zone to which the permit relates is revoked, or in other circumstances which the Scottish Ministers may specify by regulations.
134. Before revoking a heat network zone permit the licensing authority must give notice to the person holding the permit (subsection (2)). The notice must state the reasons why the revocation is proposed and specify the period (to be not less than 28 days from the date from the date on which the notice was given) within which the person may make representations to the permit authority (subsection (3)).
135. Subsection (4) enables the Scottish Ministers, by regulations, to make further procedural provision in connection with revocation of a heat networks licence.

Section 60: Appeals against revocation of heat network zone permit

136. Section 60 enables the Scottish Ministers, by regulations, to set out an appeals process for appeals against the revocation of heat networks zone permits.
137. Subsection (2) specifies a number of matters that such regulations may make provision for.
138. Subsection (3) enables regulations under section 60 to modify any enactment.

Section 61: Compensation on revocation of heat network zone permit

139. Subsection (1) provides that the Scottish Ministers may by regulations make provision for the payment of compensation to the holder of a heat network zone permit if a permit is revoked. The regulation-making power allows the Scottish Ministers to make provision for the circumstances in which compensation is payable, the calculation of compensation, the procedure for claiming compensation, and the review and appeal of decisions made under the regulations (subsection (2)).

Section 62: Enforcement of requirement for heat network zone permit

140. Subsections (1) and (2) provide that a person who (either on their own behalf or by engaging another person to do so on their behalf) operates a heat network in a heat network zone without holding a heat network zone permit for the zone in contravention of a notice issued under section 56(1) (which prohibits that operation) commits an offence. It is the principal, not the contractor, that commits the offence.
141. Subsection (3) provides for a defence of reasonable excuse.
142. Subsection (4) sets out the criminal penalties applicable if an offence is committed under this section.