



Heat Networks (Scotland) Act 2021

2021 asp 9

PART 6

POWERS OF LICENCE HOLDERS

Wayleave rights

PROSPECTIVE

70 Acquisition of necessary wayleave

- (1) The Scottish Ministers may, on an application by a licence holder, grant a necessary wayleave to a licence holder conferring a network wayleave right on the licence holder in respect of land if they consider that it is necessary or expedient for the licence holder to exercise the right for a purpose connected with the supply of thermal energy by means of a heat network by the licence holder.
- (2) A necessary wayleave—
 - (a) has effect for the period specified in the necessary wayleave,
 - (b) is subject to such terms and conditions as the Scottish Ministers consider appropriate.
- (3) A necessary wayleave may in particular include a development condition.
- (4) “Development condition” is to be construed in accordance with section 69(5) to (7) except that the references in subsections (5) and (6) of that section to a wayleave document are to be read as if they were references to a necessary wayleave.
- (5) A licence holder may apply to the Scottish Ministers for a necessary wayleave in respect of land under this section only if—
 - (a) either—
 - (i) the licence holder has given notice to the owner of the land setting out the licence holder's request to acquire a network wayleave right under section 69(3)(a), or
 - (ii) where the licence holder cannot ascertain the name or address of the owner of the land after reasonable enquiry, the licence holder has

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Heat Networks (Scotland) Act 2021, Section 70. (See end of Document for details)

- given notice in such form and manner as may be specified by the Scottish Ministers by regulations, and
- (b) one of the conditions mentioned in subsection (6) applies.
- (6) The conditions are that the owner of the land—
- (a) has given the licence holder notice in writing that the owner will not enter into or grant a wayleave document,
 - (b) has agreed to enter into or grant a wayleave document but (either or both)—
 - (i) subject to terms and conditions to which the licence holder objects,
 - (ii) a person with an interest in the land (other than the owner) will not enter into, or consent to, the wayleave document, or
 - (c) has not agreed to enter into or grant a wayleave document before the end of the period specified by the licence holder in the notice given under subsection (5)(a)(i) or (ii).
- (7) A notice under subsection (5)(a)(i) must—
- (a) state the reasons why the conferral of a network wayleave right is sought, 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 owner of the land must agree to enter into or grant a wayleave document.
- (8) Before granting a necessary wayleave in respect of land, the Scottish Ministers must give the following persons the opportunity to make representations—
- (a) the owner of the land, and
 - (b) where sub-paragraph (ii) of subsection (6)(b) applies, the person referred to in that sub-paragraph.
- (9) Subsection (1) does not apply in relation to land held or used by or on behalf of a Minister of the Crown or a department of the Government of the United Kingdom.

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