

2020 No. 1221

ENERGY

**The Heat Network (Metering and Billing) (Amendment)
Regulations 2020**

<i>Made</i>	- - - -	<i>5th November 2020</i>
<i>Laid before Parliament</i>		<i>6th November 2020</i>
<i>Coming into force</i>	- -	<i>27th November 2020</i>

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), makes the following Regulations.

The Secretary of State is a Minister designated(b) for the purposes of section 2(2) of that Act in relation to energy and energy sources.

Citation and commencement

1.—(1) These Regulations may be cited as the Heat Network (Metering and Billing) (Amendment) Regulations 2020.

(2) These Regulations come into force on 27th November 2020.

Amendment of the Heat Network (Metering and Billing) Regulations 2014

2. The Heat Network (Metering and Billing) Regulations 2014(c) are amended as follows.

Amendment of regulation 2 (interpretation)

3. In regulation 2 (interpretation) at the appropriate places insert—

““almshouse accommodation” means—

- (a) accommodation in an almshouse provided by an almshouse charity; or
- (b) any low cost rental accommodation provided by a charity which is maintained as an almshouse (whether it is called an almshouse or not);

(a) 1972 c.68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) with effect from exit day, but saved with modifications until IP completion day by section 1A of that Act (as inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c.1)). Section 2(2) of the European Communities Act 1972 was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7). Schedule 2, paragraph 1 to the European Communities Act 1972 limits the power under section 2(2) of that Act to create new criminal offences punishable on summary conviction to a maximum of level 5 on the standard scale. The section 2(2) power, as limited by Schedule 2, paragraph 1, was modified by section 85(2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (2012, c.10) in relation to England and Wales with the result that the power can be exercised to create an offence punishable on summary conviction in England and Wales by a fine of any amount.

(b) European Communities (Designation) Order 2010 (S.I. 2010/761).

(c) S.I. 2014/3120, amended by S.I. 2015/855.

“existing building” means—

- (a) a building which is connected to a district heat network or communal heating—
 - (i) before 27th November 2020; or
 - (ii) on or after 27th November 2020, where the building is not newly constructed and was not originally constructed for connection to a district heat network or communal heating;
- (b) a building mentioned in regulation 2A(2)(b) which ceases to meet the criteria in paragraph (i) or (ii) of that regulation; or
- (c) a building mentioned in regulation 2A(3)(a) which ceases to meet the criteria in paragraph (i) or (ii) of that regulation;

“low cost rental accommodation” means accommodation which is made available for rent below the market rate in accordance with rules designed to ensure that it is made available to people whose needs are not adequately served by the commercial housing market;

“social housing provider” means—

- (a) in England, a registered provider of social housing as defined in section 80(2) of the Housing and Regeneration Act 2008(a);
- (b) in Northern Ireland, a registered housing association within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992(b) or the Northern Ireland Housing Executive;
- (c) in Scotland, a social landlord as defined in section 165 of the Housing (Scotland) Act 2010(c);
- (d) in Wales a registered social landlord within the meaning of Part 1 of the Housing Act 1996(d) or a local authority;

“student accommodation” means rental accommodation provided under an agreement which grants a right of occupation in a building or dwelling for persons who are in full-time education at a university, college, school or other educational establishment;

“supported housing” means any of the following low cost rental accommodation provided by a social housing provider—

- (a) sheltered housing or extra care housing providing additional support for residents;
- (b) emergency accommodation for the homeless;
- (c) a domestic violence refuge or a domestic abuse refuge;
- (d) housing which is provided in conjunction with support and is made available exclusively for—
 - (i) people with drug or alcohol problems;
 - (ii) people with mental health problems;
 - (iii) people with learning disabilities;
 - (iv) people with physical disabilities;
 - (v) offenders and people at risk of offending;
 - (vi) young people leaving care;
 - (vii) teenage parents; or
 - (viii) refugees.”.

(a) 2008 c.17.

(b) S.I. 1992/1725 (N.I. 15), to which there are amendments not relevant to these Regulations.

(c) 2010 asp 17.

(d) 1996 c.52.

Insertion of regulation 2A

4. After regulation 2 (interpretation) insert—

“Classes of building

2A.—(1) The following buildings are in the viable class—

- (a) a building not in the open class or the exempt class which is connected to communal heating on or after 1st September 2022, where the building is newly constructed or was originally constructed for connection to communal heating;
- (b) a building which is connected to a district heat network on or after 27th November 2020, where the building is newly constructed or was originally constructed for connection to a district heat network;
- (c) an existing building where the building is supplied by a district heat network and on or after 27th November 2020 the building undergoes major renovations relating to the technical services of that building;
- (d) a building to which regulation 7(2) applied before that regulation was revoked on 27th November 2020.

(2) The following buildings are in the open class—

- (a) a building not in the exempt class which is connected to communal heating on or after 27th November 2020 and before 1st September 2022, where the building is newly constructed or was originally constructed for connection to communal heating;
- (b) a building not in the exempt class which is connected to communal heating on or after 1st September 2022, where the building is newly constructed or was originally constructed for connection to communal heating and where—
 - (i) there is more than one entry point for the pipes of the communal heating into any private dwelling or non-domestic premises in the building; or
 - (ii) the building or any part of the building is supported housing, almshouse accommodation or purpose-built student accommodation;
- (c) an existing building not in the viable class or the exempt class.

(3) Subject to paragraph (4), the following buildings are in the exempt class—

- (a) a building not consisting mainly of private dwellings which is connected to communal heating on or after 27th November 2020, where the building is newly constructed or was originally constructed for connection to communal heating and where—
 - (i) heat is distributed in the building by means of a system other than hot water; or
 - (ii) cooling is supplied and the cooling distribution system uses a transfer fluid other than water;
- (b) an existing building not in the viable class and not consisting mainly of private dwellings, where—
 - (i) heat is distributed in the building by means of a system other than hot water; or
 - (ii) cooling is supplied and the cooling distribution system uses a transfer fluid other than water;
- (c) an existing building not in the viable class in which more than 10% of the total number of private dwellings and non-domestic premises are subject to a leasehold interest, where the lease—
 - (i) began before 27th November 2020; and

- (ii) contains a provision which would prevent billing based on actual consumption unless the lease is varied, renewed, or comes to an end;
- (d) an existing building not in the viable class, where the building or any part of the building is—
 - (i) supported housing;
 - (ii) almshouse accommodation; or
 - (iii) purpose-built student accommodation.
- (4) A building mentioned in paragraph (3)(c) or (d) is not in the exempt class if, for each private dwelling and non-domestic premises in the building—
 - (a) a meter to which regulation 4(3) or (4) applies has been installed; or
 - (b) heat cost allocators, thermostatic radiator valves and a hot water meter to which regulation 6(2) applies have been installed.
- (5) For the purpose of paragraph (1)(c)—
 - “building envelope” means the integrated elements of a building which separate its interior from the outdoor environment;
 - “major renovations” means the renovation of a building where the total cost of the renovation of the building envelope or the technical services is higher than 25% of the value of the building, excluding the value of the land upon which the building is situated;
 - “technical services” means technical equipment for the heating, cooling, ventilation, hot water or lighting (or any combination thereof) of a building; and
 - “value of the building” means the reinstatement costs of the building for insurance purposes at the time immediately before the renovation of the building is commenced.”.

Amendment of regulation 3 (duty to notify)

- 5.—(1) Regulation 3 (duty to notify) is amended as follows.
- (2) In paragraph (1)—
 - (a) after sub-paragraph (c) insert—
 - “(ca) the number of buildings supplied by that district heat network or communal heating in each class;”;
 - (b) in sub-paragraph (g), for the words from “as to” to “Regulations” substitute “has been carried out in accordance with Schedule 1 for the purpose of regulation 4 or 6”.
- (3) In paragraph (3), for “A” substitute “Subject to paragraph (4), a”.
- (4) At the end insert—
 - “(4) If an updated notification is due to be submitted by a heat supplier in the period beginning on 27th November 2020 and ending on 1st September 2022, the heat supplier may submit the updated notification at any time before the end of that period.
- (5) A change of heat supplier in relation to a district heat network or communal heating does not alter the period within which the heat supplier must comply with paragraph (3).
- (6) A notification or updated notification must be submitted in a form approved by the Secretary of State or, in relation to a Scottish network, the Scottish Ministers.
- (7) The Secretary of State or, in relation to a Scottish network, the Scottish Ministers may—
 - (a) reject a notification or updated notification that does not comply with paragraph (6); and
 - (b) require the heat supplier to resubmit the notification or updated notification in a form that complies with that paragraph.

(8) In this regulation, “class” in relation to a building supplied by a district heat network or communal heating means viable class, open class or exempt class within the meaning of regulation 2A.”.

Amendment of regulation 4 (duty to install meters)

6.—(1) Regulation 4 (duty to install meters) is amended as follows.

(2) After paragraph (2) insert—

“(2A) Heat suppliers must comply with paragraph (3) or (4) in respect of all buildings in the viable class supplied by a district heat network or communal heating operated by them.

(2B) A heat supplier must comply with paragraph (3) or (4) before 1st September 2022 in respect of a building which first falls within the open class before that date, where the heat supplier determines that it is cost effective and technically feasible to install meters in the building.

(2C) A determination for the purpose of paragraph (2B) is to be made—

(a) before 27th November 2021, where the building first falls within the open class before that date; or

(b) otherwise, before 1st September 2022.

(2D) Where a heat supplier determines that it is cost effective and technically feasible to install meters in a building which first falls within the open class on or after 1st September 2022, the heat supplier must comply with paragraph (3) or (4) when the building first falls within the open class.”.

(3) In paragraph (4), after “that” insert “sufficient”.

(4) Omit paragraph (5).

(5) For paragraphs (6) and (7) substitute—

“(6) A determination as to whether it is cost effective and technically feasible to install meters in a building must be made on the basis of an analysis carried out in accordance with Schedule 1.

(7) Within four years of making a determination, a heat supplier who determines that it is not cost effective or technically feasible to install meters in the building—

(a) must make a further determination; and

(b) if the heat supplier then determines that it is cost effective and technically feasible to install meters in the building, must comply with paragraph (3) or (4) within that four year period.

(7A) Paragraph (7) does not apply where meters to which paragraph (3) or (4) applies or heat cost allocators, thermostatic radiator valves and hot water meters to which regulation 6(2) applies have been installed in the building.”.

Amendment of regulation 5 (requirements relating to meters)

7. In regulation 5 (requirements relating to meters), for the words from “these” to “installed, that” substitute “a meter is installed, the”.

Amendment of regulation 6 (duty to install heat cost allocators, thermostatic radiator valves and hot water meters)

8.—(1) Regulation 6 (duty to install heat cost allocators, thermostatic radiator valves and hot water meters) is amended as follows.

(2) After paragraph (2) insert—

“(2A) A heat supplier must comply with paragraph (2) before 1st September 2022 in respect of a building which first falls within the open class before that date where—

- (a) the heat supplier determines that it is cost effective to install heat cost allocators, thermostatic radiator valves and hot water meters in the building; and
- (b) it is technically possible to do so.

(2B) A determination for the purpose of paragraph (2A)(a) is to be made—

- (a) before 27th November 2021, where the building first falls within the open class before that date; or
- (b) otherwise, before 1st September 2022.

(2C) Where a heat supplier determines that it is cost effective to install heat cost allocators, thermostatic radiator valves and hot water meters in a building which first falls within the open class on or after 1st September 2022 and it is technically possible to do so, the heat supplier must comply with paragraph (2) when the building first falls within the open class.”.

(3) Omit paragraph (3).

(4) For paragraphs (4) and (5) substitute—

“(4) A determination as to whether it is cost effective to install heat cost allocators, thermostatic radiator valves and hot water meters in a building must be made on the basis of an analysis carried out in accordance with Schedule 1.

(5) A heat supplier who determines that it is not cost effective to install heat cost allocators, thermostatic radiator valves and hot water meters in a building—

- (a) may employ alternative methods for determining charges for the supply of heating and hot water including using meters installed in accordance with regulation 4(1); and
- (b) within four years of making a determination as to cost effectiveness—
 - (i) must make a further determination as to cost effectiveness; and
 - (ii) if the heat supplier then determines that it is cost effective to install heat cost allocators, thermostatic radiator valves and hot water meters in the building, must comply with paragraph (2) within that four year period.

(5A) Paragraph (5) does not apply where meters to which regulation 4(3) or (4) applies or heat cost allocators, thermostatic radiator valves and hot water meters to which paragraph (2) applies have been installed in the building.”.

(5) In paragraph (6), omit “this regulation imposes a duty on a heat supplier to ensure that”.

Amendment of regulation 7 (replacement of existing meters, new buildings and major renovations)

9.—(1) Regulation 7 is amended as follows.

(2) In the heading, omit “, new buildings and major renovations”.

(3) In paragraph (1), for “satisfies the requirements of regulation 5” substitute “accurately measures, memorises and displays the consumption of heating, cooling or hot water by a final customer”.

(4) Omit paragraphs (2) and (4).

Amendment of regulation 8 (on-going obligations in relation to meters and heat cost allocators)

10. In regulation 8 (on-going obligations in relation to meters and heat cost allocators)—

- (a) omit “these Regulations impose a duty on a heat supplier to ensure that”; and
- (b) after “operating” insert “correctly”.

Amendment of regulation 9 (billing)

11. In regulation 9 (billing), in paragraph (1), omit “these Regulations impose a duty on a heat supplier to ensure that”.

Amendment of regulation 11 (offences)

12.—(1) Regulation 11 (offences) is amended as follows.

(2) In paragraph (1), after sub-paragraph (b) insert—

“(ba) regulation 5 (requirements relating to meters);”.

(3) After paragraph (2) insert—

“(2A) No person may be prosecuted for—

- (a) an offence under paragraph (1)(b) in respect of any failure to comply with regulation 4(8) which occurred before 1st September 2022;
- (b) an offence under paragraph (1)(ba) in respect of any meter installed before 27th November 2020 where the offence occurred before 1st September 2022;
- (c) an offence under paragraph (1)(c) in respect of any failure to comply with regulation 6(6) which occurred before 1st September 2022 where a heat cost allocator was installed other than in compliance with a duty under these Regulations;
- (d) an offence under paragraph (1)(d) in respect of any failure to comply with regulation 7(1) which occurred before 1st September 2022 where a replacement meter was installed other than in compliance with a duty under these Regulations;
- (e) an offence under paragraph (1)(e) in respect of any failure to comply with regulation 8 which occurred before 1st September 2022 where a meter or heat cost allocator was installed other than in compliance with a duty under these Regulations;
- (f) an offence under paragraph (1)(f) in respect of any failure to comply with regulation 9(1) which occurred before 1st September 2022 where a meter or heat cost allocator was installed other than in compliance with a duty under these Regulations.”.

Amendment of regulation 13 (penalties)

13. In regulation 13 (penalties), in paragraph (2)—

(a) before paragraph (a) insert—

“(aa) on summary conviction in England and Wales to a fine;”;

(b) in paragraph (a), after “conviction” insert “in Scotland or Northern Ireland”.

Amendment of Schedule 1 (determination of cost effectiveness and technical feasibility)

14.—(1) Schedule 1 (determination of cost effectiveness and technical feasibility) is amended as follows.

(2) In the heading, for “determination” substitute “analysis”.

(3) For the Schedule reference, substitute “Regulations 3, 4 and 6”.

(4) In paragraph 1(2), after “heating” insert “, ”.

(5) In paragraph 3, for “benchmark heat demand rate” substitute “heat or cooling demand” in each place it occurs.

(6) In paragraph 4, omit sub-paragraph (b).

(7) In paragraph 5, omit sub-paragraphs (a) and (c).

(8) In paragraph 6(2)—

- (a) for “paragraph” substitute “sub-paragraph”; and
 - (b) after “installing” insert “hot water meters in the building and”.
- (9) In paragraph 7—
- (a) in sub-paragraph (c) omit “and”;
 - (b) after sub-paragraph (d) insert—
 - “(e) the matters mentioned in paragraph 2(a) to (d); and
 - (f) whether the costs could be reduced if another building supplied from the same district heat network is also to have heat cost allocators and thermostatic radiator valves installed in accordance with regulation 6(2).”.
- (10) In paragraph 8, for “benchmark heat demand rate” substitute “heat or cooling demand” in each place it occurs.
- (11) In paragraph 9(a), after “meters” insert “and temperature control devices”.
- (12) For paragraph 10 substitute—
- “**10.** In this Schedule, “heat or cooling demand” for a building means the actual heat or cooling consumption for the building or an estimated heat or cooling demand for the building calculated using industry standard methodologies and assumptions for calculating heat demand, taking into account—
- (a) the construction, fabric, ventilation and age of the building;
 - (b) the number of individual private dwellings or non-domestic premises in the building;
 - (c) the number of storeys in the building;
 - (d) the geographical location of the building;
 - (e) the type of use of the building;
 - (f) heat and cooling plant and system efficiency.”.
- (13) In paragraph 11, for “9%” substitute “3.5%”.

Amendment of Schedule 2 (minimum requirements for billing and billing information)

15. In Schedule 2 (minimum requirements for billing and billing information), for paragraph 6 substitute—

- “**6.** It will be considered technically possible and economically justified to issue bills and billing information to final customers in accordance with regulation 9(1) where the estimated reasonable costs of issuing bills and billing information to final customers does not exceed £92 per final customer per calendar year unless the final customer occupies—
- (a) supported housing, almshouse accommodation or purpose-built student accommodation; or
 - (b) any private dwelling or non-domestic premises that is subject to a leasehold interest where the lease—
 - (i) began before 27th November 2020; and
 - (ii) contains a provision which would prevent billing based on actual consumption unless the lease is varied, renewed, or comes to an end.”.

5th November 2020

Kwasi Kwarteng
Minister of State
Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Heat Network (Metering and Billing) Regulations 2014 (S.I. 2014/3120) which implemented Articles 9(1) and (3), 10, 11 and 13 of Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency (OJ No L315, 14.11.2012, p1), amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC.

Regulation 3 inserts new definitions in regulation 2 of S.I. 2014/3120.

Regulation 4 inserts regulation 2A which classifies buildings connected to a district heat network or communal heating. The building classes defined in regulation 2A are the viable class, the open class and the exempt class.

Regulation 5 amends regulation 3 of S.I. 2014/3120 to include a duty for a heat supplier to notify the number of buildings in each class supplied by a district heat network or communal heating operated by the heat supplier. The amendments made by regulation 5 require notifications to be in a form approved by the Secretary of State or, in relation to a Scottish network, the Scottish Ministers, and provide power for the Secretary of State or the Scottish Ministers to reject notifications not in the approved form. The amendments also extend the timeframe for submitting an updated notification due before 1st September 2022, and provide that the four year period for submitting an updated notification is not affected by a change of heat supplier.

Regulation 6 amends regulation 4 of S.I. 2014/3120 to provide that a heat supplier's duty to install meters in accordance with regulation 4 applies to all buildings in the viable class and to those buildings in the open class where the heat supplier determines that it is cost effective and technically feasible to do so. The amendments require a heat supplier to determine whether it is cost effective and technically feasible to install meters in a building in the open class on the basis of an analysis carried out in accordance with Schedule 1. The amendments provide a timeframe for meters to be installed. The amendments provide that where a heat supplier determines that it is not cost effective and technically feasible to install meters, but meters or heat cost allocators are installed, there is no requirement for the heat supplier to make any further determination under regulation 4.

Regulation 7 amends regulation 5 of S.I. 2014/3120 to provide that the accuracy requirements of that regulation apply to any installed meter.

Regulation 8 amends regulation 6 of S.I. 2014/3120. The amendments require a heat supplier to determine whether it is cost effective to install heat cost allocators in a building in the open class on the basis of an analysis carried out in accordance with Schedule 1. The amendments provide a timeframe for a heat supplier to install heat cost allocators if it is technically possible to do so. The amendments provide that where a heat supplier determines that it is not cost effective to install heat cost allocators, but meters or heat cost allocators are installed, there is no requirement for the heat supplier to make any further determination as to cost effectiveness under regulation 6. The effect of the amendment to regulation 6(6) is that the accuracy requirements of that provision apply to any installed heat cost allocator.

Regulation 9 amends regulation 7 of S.I. 2014/3120 to remove provisions relating to newly constructed buildings supplied by a district heat network and existing buildings supplied by a district heat network which undergo major renovations. These buildings are included in the viable class defined in the inserted regulation 2A. Regulation 9(3) amends regulation 7(1) of S.I. 2014/3120 to specify the accuracy requirements for replacement meters.

Regulation 10 amends regulation 8 of S.I. 2014/3120 to provide that the ongoing requirements of regulation 8 apply to all installed meters and heat cost allocators.

Regulation 11 amends regulation 9 of S.I. 2014/3120 to provide that the billing requirements of regulation 9 apply where meters or heat cost allocators are installed.

Regulation 12 amends regulation 11 of S.I. 2014/3120 to include failure to comply with regulation 5 as an offence, and to delay prosecution for new offences until 1st September 2022.

Regulation 13 amends regulation 13(2) of S.I. 2014/3120 to provide for a fine of an unlimited amount on summary conviction in England and Wales for the offences under regulation 11(1)(b) to (d). This includes the new offence under regulation 11(1)(ba).

Regulation 14 amends Schedule 1 to S.I. 2014/3120 in relation to the analysis as to cost effectiveness and technical feasibility.

Regulation 15 amends Schedule 2 to S.I. 2014/3120 to specify when it will be considered technically possible and economically justified to issue bills and billing information to final customers in accordance with regulation 9(1) of S.I. 2014/3120.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Clean Heat Directorate, Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET and is available alongside the instrument on www.legislation.gov.uk.

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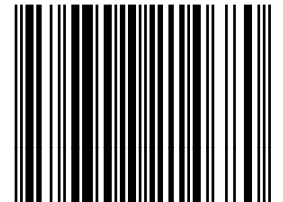
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