



Department for
Energy Security
& Net Zero

Energy Bill Policy Statement

Heat Network Market Framework

March 2023



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Summary

The Energy Bill was introduced into Parliament on 6 July 2022. This Bill will deliver a cleaner, more affordable and more secure energy system for the long term. It builds on the ambitious commitments in the British Energy Security Strategy to invest in homegrown energy and maintain the diversity and resilience of the UK's energy supply.

The Energy Bill makes provisions to create a market framework for the heat network sector.

Heat networks play an important role in decarbonising heat and support delivery of our net zero commitments. They are uniquely able to unlock otherwise inaccessible large-scale renewable and recovered heat sources such as waste heat and heat from rivers and mines.

Heat networks transfer thermal energy via a network of pipes. These pipes can contain liquid or steam. They provide users with heating, cooling and/or hot water. A heat network differs from other systems by providing these services to more than one premises. For example, several flats in a building, or even across whole neighbourhoods of a city.

Compared to the domestic gas and electricity sectors, the heat network market lacks regulation, disadvantaging consumers, investors, and businesses. The Bill will lay the foundations for the market framework, with delegated powers leading to:

- Regulation of the market, including consumer protections for consumers and carbon emissions limits and technical standards on networks.
- The appointment of a heat networks regulator to enforce regulatory requirements.
- The creation of rights and powers for licensed heat network developers to make constructing and maintaining heat networks easier.
- The introduction of step-in arrangements in the event of heat network insolvency, ensuring consumers continue to receive supply of heat.

These delegated powers will be conferred on the Secretary of State with equivalent powers for the Department for the Economy in relation to Northern Ireland.

Schedule 16 of the Bill provides further details on the Heat Networks Market Framework clauses, with this Policy Statement building on that Schedule.

To note, the Energy Prices Act 2022 is a separate piece of legislation, introduced in response to the global rise in energy prices. The Act has supported heat network consumers by limiting energy input prices and appointing the Energy Ombudsman and the Consumer Council for Northern Ireland in alternative dispute resolution roles. The Energy Bill builds on these foundations by providing more comprehensive and longer-term regulation.

Definition of heat network

The objective of this power is to allow the Secretary of State to amend the definition of a relevant heat network, a communal heat network and a district heat network.

The Bill already provides for these definitions, which we have sought to future-proof by ensuring it accounts for future technological advancements of heat networks. This minimises the likelihood that we need to amend the definition in future. Any amendments would therefore likely involve small changes to the existing definition. It is also a narrow power given it would not amend regulatory requirements or the approach to regulation.

The heat networks regulator

The Bill will give the Secretary of State the power:

- a) to appoint a regulator.
- b) to specify the regulator's objectives and duties.
- c) to allow the regulator to delegate some of its functions.

The Bill appoints Ofgem as regulator in Great Britain and the Utility Regulator as regulator in Northern Ireland. It provides the Secretary of State with powers to make regulations providing for a body other than Ofgem to carry out some or all regulatory functions in future. The Department for the Economy has the same powers in Northern Ireland.

The government is appointing Ofgem as heat networks regulator as it has relevant experience from regulating the energy market, brings efficiencies from existing expertise and overheads, and offers the quickest route to regulation. Ofgem also received the support of most stakeholders in the government's public consultation on heat networks regulation.

Specifically, the regulator will be required to:

- Carry out its functions in a way that best furthers its objectives.
- Consider whether organisations granted authorisations or licences are able to finance obligations imposed by or under the regulations.
- Protect the interests of heat network consumers in vulnerable circumstances

Specifically, the main objective of the regulator will be to protect the interests of current and future heat network consumers. The regulations may specify consumer interests, for instance:

- The reliable supply of heating, cooling or hot water from a heat network,
- Reducing greenhouse gas emissions,
- Proportionate and fair charges for the supply of heat, and,
- Clear communication of services and charges.

Additionally, the regulator will be required to promote effective competition between persons engaged in commercial heat network activities and have regard to the interests of heat network consumers as gas, electricity, communications, or water utility customers when carrying out functions. We also intend for the regulations to require regulators of those utilities to also consider the interests of heat network consumers.

To regulate the market effectively and efficiently, the regulator will need to monitor and maintain both records and information. We intend for the regulator to be given powers, via the regulations, to this purpose. This includes the ability to request information from bodies carrying out regulated activities. This will ensure that the regulator's other activities (e.g. on

compliance with regulatory requirements and identifying the case for intervention) are informed by evidence.

Although information sharing and gathering is important for the market framework, we must ensure it does not infringe on data protection. For that reason, regulations will specify the information that can be shared with the regulator, and information that should be withheld, ensuring that any disclosure does not violate data protection regulations.

We intend for the regulator to regularly publish various documents and reports to ensure transparency. The regulations will detail this. For example, such publications can include impact assessments in relation to its decisions to provide transparency and confidence, and reports about priorities and financial information.

We expect to lay draft regulations in 2023 and for Ofgem to begin regulating the market in 2024.

Regulation of the heat networks market

Under this power the Secretary of State (or the Department for the Economy in Northern Ireland) can make regulations to regulate relevant heat networks and to confer powers on persons to carry out activities related to building or maintaining heat networks. In general, we refer to the latter as “rights and powers”, which were outlined in the government consultation on the Heat Networks Market Framework.¹

If the Secretary of State uses these powers to make regulations that also impact a devolved policy area, the Secretary of State must consult with Scottish Ministers.

The market framework will be underpinned by an authorisation regime. In short:

Some activities will be defined as ‘regulated’ in regulations made by the Secretary of State under these powers. The government has set out that this will include supply of thermal energy through a heat network and operation of a heat network.

Authorisation will be required to carry out these regulated activities. The regulator will grant this, with conditions.

Via these conditions the regulator can ensure standards across the sector, including the enforcement of consumer protection rules, emission limits, and if needed, price controls.

The Secretary of State and Ofgem will also specify the requirements to gain an authorisation, including the process for application. We intend to use this to ensure Ofgem has a route to scrutinising the operation and finances of heat networks, given the need for good management of networks for the benefit of consumers.

We intend to give the regulator discretion to decide what conditions to include in different types of authorisations, as different roles will have different requirements. The Secretary of State will also be able to decide which conditions must be included in different types of authorisations and there will be scope to include specific conditions on individual authorisations.

There will be consultation on authorisation conditions, but we intend for the following areas to be covered:

- Installing or maintaining metering devices;
- The charges consumers pay towards their bills, service standards and the communication of information about the heat network and the services provided;
- Price regulation;
- Complying with technical standards;
- Continuity of heat supply;

¹ <https://www.gov.uk/government/consultations/heat-networks-building-a-market-framework>

- Greenhouse gas emissions limits;
- Providing information to the regulator, and,
- Payment of fees to the regulator, including for special administration.

We may also use authorisation conditions to introduce certain requirements on heat network developers and operators in heat network zones.

There is currently no ‘supplier of last resort’ mechanism in the heat networks market, meaning consumers could be left without supply of key services should their heat network operator stop operating, due to insolvency or their authorisation being revoked. We intend for authorisation conditions to address this issue by requiring contractual agreements with one or more other persons obliging them to ensure the continuity of supply (in circumstances described in the regulations). For example, a contract that could allow and require a person “A” to take over some of the activities carried out by authorisation holder “B” if “B” were no longer able to.

We intend to give the regulator the power to direct an authorisation holder to carry out a regulated activity in relation to a heat network in the place of another person. This is to facilitate “step-in” arrangements, where a previously authorised entity can no longer undertake its functions. The regulator will be able to smooth this process by mandating information sharing between entities, stopping the old entity from undertaking certain actions, and having powers to ensure that the new entity can carry out its regulated activity under suitable conditions, as appropriate. Overall, this will protect consumers from disruption.

We intend for the regulator to be able to modify and revoke authorisation conditions (for individual or multiple entities) and the process for this will be clearly set out in regulations. The Secretary of State and the Department for the Economy will also be able to make regulations providing for certain changes to the conditions.

There will be an initial period during which persons carrying out regulated activities will be treated as holding an authorisation. Persons carrying out regulated activities during the period must apply for an authorisation and satisfy relevant conditions in order to be authorised after the end of the initial period.

The purpose is to allow sufficient time to persons carrying out regulated activities to prepare and submit authorisation applications, while at the same time allowing Ofgem to enforce authorisation conditions prior to those applications.

Other activities within the sector will be controlled via regulation and permissions, such as being a code manager and taking on a maintenance and installation licence.

We intend to create the role of code manager and related documents. This mirrors the approach in the gas and electricity sectors. Specifically:

We will delegate powers to the regulator to appoint a code manager and administer their related documents.

The code manager will set the ‘rulebook’ for the sector including the technical standards.

Sector stakeholders will utilise the related documents created by the code manager to adhere to the required sector standards.

We also intend to create maintenance and installation licences for any person involved in the building, renovating or maintenance of a heat network. This mirrors the approach taken in a range of other key infrastructure industries.

The regulator will be responsible for issuing these licences, which confer rights and responsibilities, including:

- Responsibility to record and provide information and pay fees to the regulator.
- Rights to
 - Apply for the right to access land for the purposes of installing or maintaining heat network equipment.
 - Install heat network apparatus over or under a road, or in, over or under other transport land, such as canals and railways, plus any other actions related to this, such as maintaining or operating the equipment.
 - Carry out other works required for the installation of heat network apparatus.
 - The right to enter transport land for the installation of heat network apparatus.
 - Carry out specific types of work without planning permissions.

The process and requirements to gain a licence will be set out in regulations. The regulator will ensure that licences are only awarded to competent persons.

Enforcement

We intend to give the regulator the power to enforce the conditions of authorisation to ensure the system works effectively. Part 6 of Schedule 14 provides more details on the enforcement powers we intend to give the regulator, but in summary:

This covers the regulator's interactions with heat network authorisation, a code manager, or an installation and maintenance licence.

The regulator will be able to issue orders and penalties. Provisional and Final Orders will be used to secure a person's compliance, where it appears (Provisional Orders), or the regulator is satisfied (Final Orders), that the person is or is likely to contravene a condition. If breaking a condition has caused damage, loss or inconvenience for a consumer, the regulator can make a "consumer redress order". This type of order can be used to remedy the consequences and prevent the person from causing a similar breach in the future.

The regulator can forego an order if the powers in the Competition Act 1998 are more appropriate.

The regulator will have a choice of enforcement methods, as well as flexibility when the person in question holds two or more authorisations.

We will detail the procedure for securing compliance and how an order may be legally challenged, and how they may be enforced.

For penalties we will detail:

- the maximum amount,
- the procedure,
- how a penalty may be legally challenged,
- payment of interest,
- how penalties may be recovered; and,
- into what “pot” the penalties are paid.
- The regulator will publish a policy statement on penalties and their amounts.
- The regulator will also be able to issue consumer redress orders. We will detail in regulations:
 - what requirements they impose,
 - the maximum amount of compensation payable to consumers,
 - procedure,
 - how an order may be legally challenged; and,
 - how they may be enforced.

Again, the regulations may also provide for the regulator’s publication of policy statements about their approach to consumer redress orders.

The approach to notices, penalties and consumer redress orders will mirror that seen in other energy markets where Ofgem also acts as regulator. This system works well, ensuring a level playing field between businesses and improved outcomes for consumers.

We expect to lay draft regulations on this power in 2023.

Scotland

The Bill will give the Secretary of State powers to make regulations designating the Gas and Electricity Markets Authority (GEMA) as the licensing authority under the Heat Networks (Scotland) Act. Ofgem is the executive branch of GEMA. Discussions between BEIS and the Scottish Government have led to an agreement that delegated powers will provide for the appointment of GEMA as the licensing authority.

This will ensure that the Heat Networks (Scotland) Act 2021 can operate as intended by the Scottish Government, which expressed a preference for Ofgem being appointed as licensing authority. The appointment will also promote coherent regulation of heat networks across GB given we are also appointing Ofgem as heat networks regulator under this Bill.

The Bill will also give the Secretary of State powers to amend the Heat Networks (Scotland) Act 2021 (HNSA) for the purpose of making provision about monitoring compliance with and enforcement of conditions of heat network licences provided by the HNSA.

The HNSA as passed by the Scottish Parliament in 2021 did not include compliance monitoring and enforcement powers for Ofgem as the licensing authority in Scotland. Following negotiations between UK Government and the Scottish Government, it has been agreed that regulations made under the Energy Bill will grant the Scottish licensing authority the necessary monitoring and enforcement powers. These monitoring and enforcement powers will be identical to the monitoring and enforcement powers which we will provide Ofgem as the heat networks regulator under the Energy Bill. These are set out in the enforcement section above.

Regulations which we introduce amending the HNSA will ensure that the licensing authority is able to enforce licence conditions introduced by the Scottish regulatory framework. This will help ensure that Scottish heat network consumers are adequately protected and that there is a coherent regulatory regime covering the whole of Great Britain.

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