

This document relates to the Heat Networks (Scotland) Bill (SP Bill 64) as introduced in the Scottish Parliament on 2 March 2020

# Heat Networks (Scotland) Bill

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## Policy Memorandum

### Introduction

1. As required under Rule 9.3.3 of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Heat Networks (Scotland) Bill introduced in the Scottish Parliament on 2 March 2019.

2. The following other accompanying documents are published separately:

- Explanatory Notes (SP Bill 64-EN);
- a Financial Memorandum (SP Bill 64-FM);
- Statements on Legislative Competence by the Presiding Officer and the Scottish Government (SP 64-LC).

3. This Policy Memorandum has been prepared by the Scottish Government to set out the Government's policy behind the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### Policy objectives of the bill

#### Background

4. The Climate Change (Emissions Reduction Targets) Act 2019, was passed by the Scottish Parliament on 25 September 2019 and received Royal Assent on 31 October 2019. The Act requires Scotland to reach net-zero greenhouse gas emissions by 2045, with interim reductions of 75% required by 2030, and 90% by 2040<sup>1</sup>.

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<sup>1</sup> Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, the Scottish Parliament, 25 September 2019.

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5. One of the major challenges to meeting these targets will be reducing the emissions caused by heating the country's homes and other buildings.

6. Heat networks are a form of infrastructure consisting of insulated pipes and heat generation which supplies heat (in the form of hot water or steam) to homes and non-domestic premises, such as businesses and the public sector.

7. Heat networks are often more efficient than individual fossil fuel heating systems, and can also be run fully from renewables or recovered waste or surplus heat sources. They can allow the heat source to be changed to one compatible with Scotland's climate change targets without further disruption to the heat users. Heat networks therefore have the capacity to reduce – or remove – the emissions associated with heating buildings and the Committee on Climate Change has recommended that heat networks should form a part of Scotland's future heat supply<sup>2</sup>.

8. The Programme for Government (PfG) 2019-2020 included a Heat Networks Bill as part of this year's legislative programme<sup>3</sup>. The overall purpose of the Bill is to encourage greater deployment of heat networks in Scotland, in order to help reduce emissions from heating homes and buildings.

9. The Bill will also contribute to Scotland's target to deliver 11% of non-electrical heat demand from renewable sources by 2020<sup>4</sup> and the Scottish Government's target that 50% of all energy consumption come from renewables by 2030<sup>5</sup>.

10. In the right circumstances, heat networks can also reduce heating costs for householders. As such they can contribute to the target set out in the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 that

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<sup>2</sup> Reducing emissions in Scotland: 2019 Progress Report to Parliament, the Committee on Climate Change, 17 December 2019.

<sup>3</sup> Protecting Scotland's Future: The Government's Programme for Scotland 2019-20, the Scottish Government, 3 September 2019.

<sup>4</sup> Renewable Heat Action Plan for Scotland: A Plan for the Promotion of the Use Heat from Renewable Sources, the Scottish Government, 4 November 2009.

<sup>5</sup> Scottish Energy Strategy: The Future of Energy in Scotland, the Scottish Government, 20 December 2017.

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in the year 2040, as far as reasonably possible no household in Scotland is in fuel poverty and, in any event, that no more than 5% of households in Scotland are in fuel poverty<sup>6</sup>.

11. In bringing forward this legislation, the Scottish Government is also seeking to give effect to recommendations (as far as possible within devolved competence), that were made to it by the Competition and Markets Authority (CMA) in July 2018, that the introduction of regulation to the heat network sector is required ahead of its expected growth<sup>7</sup>.

12. In January 2018, an industry and consumer Task Force<sup>8</sup> identified that two of the key challenges to accelerating the development of heat networks were attracting private investment and increasing consumer acceptance of what is as yet an emerging solution in the UK<sup>9</sup>.

13. The Scottish Government agrees with this view and the Bill therefore seeks to increase consumer confidence in heat networks, while also creating conditions to de-risk investment. The Scottish Government is also seeking to contribute to eradicating fuel poverty as part of the Bill by ensuring that new heat networks develop where evidence shows that they can reduce fuel costs for householders and businesses.

## **Part 1 – Heat networks licences**

### **Policy intention**

14. At present, specific regulations applying to heat networks are limited to the Heat Networks (Metering and Billing) Regulations 2014<sup>10</sup>. The

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<sup>6</sup> Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019, the Scottish Parliament, 11 June 2019.

<sup>7</sup> Heat Networks Market Study: Final Report, the Competition and Markets Authority, 23 July 2018.

<sup>8</sup> In early 2017, the Association for Decentralised Energy established the Heat Network Task Force: a group of experts, from within and outside of the industry, who spent a year considering how best to address the two issues of investability and customer protection.

<sup>9</sup> Shared Warmth: A Heat Network Market that Benefits Consumers, Investors and the Environment, Industry Heat Network Task Force, 31 January 2018.

<sup>10</sup> The Heat Network (Metering and Billing) Regulations 2014, the UK Parliament, 18 December 2014.

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Regulations include requirements on heat suppliers (i.e. those supplying and charging for heating, cooling or hot water) to:

- notify the Office for Product Safety and Standards (OPSS) of the existence of their network(s);
- fit heat meters (where it is cost-effective and technically feasible); and
- bill customers transparently and based on actual consumption, where economically justified to do so.

15. Otherwise there are no set requirements for heat networks and there is no sector regulator with responsibility for overseeing the market.

16. Accordingly, heat networks have developed to varying standards, while customers do not automatically benefit from the wide-ranging rights and protections afforded to gas and electricity customers. While some heat networks in Scotland have been set up with the aim of reducing the cost of heating to householders served by them, this is not always the case.

17. In 2014, the Scottish Government set up the Special Working Group (of the Expert Commission on District Heating)<sup>11</sup> to look at the current regulatory environment in Scotland as it affects heat networks (also known as “district” and “communal” heating) and to make recommendations as to what changes, if any, would be helpful in supporting and promoting district heating.

18. The Group recognised that:

“If the Scottish Government realises its stated ambition of a step change in the use of district heating then this will mean large numbers of households and businesses are connected to district

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<sup>11</sup> In 2014 the Scottish Government asked a number of district heating practitioners and other key stakeholders from the private and public sectors to serve on a Special Working Group to look at the current regulatory environment in Scotland as it affects heat networks and to make recommendations as to what changes, if any, would be helpful in supporting and promoting the growth of the sector. The Group also asked to consider the regulatory environment elsewhere in Europe to allow any appropriate lessons from countries with successful heat network sectors, such as Denmark and Sweden, to inform its recommendations.

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heating systems and in effect will have a key energy resource supplied by a monopoly. Under these circumstances, there is little alternative to a licence to supply and regulation covering pricing, service and technical standards associated with this licence.<sup>12</sup>

19. The Scottish Government accepts these views and the Bill therefore introduces a requirement for all heat networks operators in Scotland to hold a Heat Networks Licence. The Scottish Government views this as necessary as heat networks provide an essential service to buildings in the form of heat and hot water. Given this, and the projected growth in the sector, a continued lack of regulation leaves the market and its consumers vulnerable to abuse from companies with limited experience and expertise to complete and operate efficient heat networks.

20. The intention is to ensure that market participants are solvent, competent, fit and proper and provide their essential service in line with conditions set by a Licensing Authority, with ongoing monitoring and enforcement where necessary. This, in turn, will provide assurances to both consumers and investors in deciding whether to become involved in the sector.

21. The CMA has recommended to the Scottish Government (and UK Government) “that a statutory framework should be set up that underpins the regulation of all heat networks”. The CMA noted that:

“We consider that a general authorisation or licensing regime that regulates heat networks against a set of regulatory principles laid down in rules and/or guidance would be a proportionate regulatory regime given the number and diversity of networks in the UK and the projected growth in the sector.”<sup>13</sup>

22. The Scottish Government has chosen to license the sector, given that it has shown to be an effective form of regulation for utilities (such as gas, electricity and water), while also enabling technical standards to be required which can maximise the efficiency of heat networks and enable

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<sup>12</sup> Report of the Special Working Group on Regulation, the Special Working Group (of the Expert Commission on District Heating), 12 April 2016.

<sup>13</sup> Heat Networks Market Study: Final Report, the Competition and Markets Authority, 23 July 2018.

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the potential for them to interconnect and serve a greater number of buildings in future.

23. However, the Scottish Government recognises that it may be sensible to exempt certain heat network operators from holding a licence (or from certain licence conditions) to ensure proportionality. The Scottish Government's view is that licensing should extend as far as possible so as to create consumer trust in the sector and that the rationale and thresholds for any exemptions need to be clearly determined. The Scottish Government's consultations and discussions with stakeholders have not identified a clear set of possible exemptions and the scope of any exemptions will need to be kept under review as the market develops, so the Bill therefore enables this to be set and amended by subsequent regulations to retain flexibility.

## **Consumer protection**

24. As with consumers of all goods and services, existing legislation, such as the Consumer Rights Act 2015, provides heat network customers with some rights which they are entitled to expect when receiving their heat supply<sup>14</sup>. However, there is evidence that this does not provide sufficient protection or redress for heat network customers<sup>15</sup>.

25. Powers to legislate for heat are devolved to the Scottish Parliament<sup>16</sup>. However, consumer protection remains a reserved matter to the UK Parliament, in spite of the devolution of further powers on consumer advocacy in the Scotland Act 2016<sup>17</sup>. Consumer protection is already a devolved matter for Northern Ireland<sup>18</sup>.

26. As such, the Bill must navigate a complex legislative context and does not provide for statutory minimum consumer standards for heat network customers within Heat Networks Licences, as the Scottish Government would wish.

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<sup>14</sup> Consumer Rights Act 2015, the UK Parliament, 26 March 2015.

<sup>15</sup> Different Rules for Different Fuels: Exploring Consumer Protection in the District Heating Market, Citizens Advice Scotland, May 2017.

<sup>16</sup> Scotland Act 1998, the UK Parliament, 19 November 1998.

<sup>17</sup> Scotland Act 2016, the Scottish Parliament, 26 March 2016.

<sup>18</sup> Northern Ireland Act 1998, the UK Parliament, 19 November 1998.

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27. The introduction of Heat Network Consents and Heat Network Zone Permits (discussed below) will enable new heat networks to be thoroughly scrutinised before being approved. Those wishing to develop and operate new schemes may therefore wish to demonstrate the expected outcomes and service standards that they will provide.

28. The UK Government has indicated that it will respond to the CMA recommendations on heat networks<sup>19</sup>, but has yet to bring forward legislation to this effect. The Scottish Government believes that consumer protection provisions relating to heat networks should be devolved to allow the licensing of the sector to be administered coherently in Scotland by a single body and to enable any standards to adapt to the distinct needs of Scottish communities. As such the Scottish Government continues to discuss devolution with the UK Government and intend to request the devolution of consumer protection in relation to heat networks, so that consumer standards can be delivered through the Heat Networks Licences that the Bill will create.

29. The Scottish Government is of the view that the Bill is not reliant on devolution by the UK Government and that it is competent to progress without this because it enables any consumer protection powers that may be devolved to be readily incorporated as a condition of licence at a later date.

### **Licensing authority**

30. The Bill enables the Scottish Ministers to appoint a Licensing Authority whose main function will be administering the licensing system.

31. The CMA's Market Study suggested that Ofgem would be an appropriate body to act as the sector regulator. However, as Ofgem is a statutory body established by UK-wide legislation<sup>20</sup>, it is the Scottish Government's view that appointing it as a sector regulator in Scotland on a statutory basis would be beyond the competence of the Scottish Parliament.

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<sup>19</sup> Heat Networks: Ensuring Sustained Investment and Protecting Consumers, the Department for Business, Energy and Industrial Strategy (BEIS), 7 December 2018.

<sup>20</sup> Utilities Act 2000, the UK Parliament, 28 July 2000.

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32. Furthermore, the Heat Networks Regulation Working Group suggested that a distinct Scottish Regulator – such as the Scottish Government itself – may be more appropriate in Scotland, particularly given that there is a clear divergence between the regulatory functions proposed by the UK Government, and those additional functions that the Bill will create in Scotland aimed at accelerating the delivery of heat networks here<sup>21</sup>.

33. The Scottish Government remains open to Ofgem taking on this function in Scotland, if UK Government legislative change allows, and if that is appropriate following the passage of the Bill.

34. As such, the Bill enables the Scottish Ministers to designate the Licensing Authority through regulations, safeguarding primary legislation from pre-empting any decision by the UK Government in regards to:

- further devolution of consumer protection in relation to heat networks; and
- legislating on a UK-wide basis for consumer protection for heat networks and the amendment of Ofgem's remit.

35. The Bill enables the Scottish Ministers to take on the functions of the Licensing Authority in the meantime, while these matters become clear and when a long-term sector regulator for Scotland can be determined.

## **Part 2 – Heat network consent**

### **Policy intention**

36. Heat Networks Licences will increase the standards and status of heat network operators, by validating and endorsing those participating in the market. While the Scottish Government believes that this will be essential, it is also of the view that a project-specific approval process is also needed to scrutinise how new heat networks (and expansions to existing heat networks) meet local and national objectives.

37. In the past there have been instances where heat networks have led to adverse outcomes for consumers. These schemes were developed without a project-specific approvals process, such as Heat Network

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<sup>21</sup> Heat Networks Regulation Working Group: Interim Recommendations Report, the Heat Networks Regulation Working Group, 3 December 2019.

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Consent, being in place which provides a robust route for scrutinising, examining and attaching conditions to the development and operation of heat networks. Heat Network Consent will provide an opportunity for the Scottish Ministers, in collaboration with the relevant local authority, to consider the local context and to suggest appropriate adaptations, before a heat network is approved to proceed.

38. As such, the Bill will require the developers of all new heat networks to obtain a Heat Network Consent. In applying for Heat Network Consent, developers will provide the Scottish Ministers with information on the project and its expected impacts.

39. This will be taken under consideration by the Scottish Ministers in determining whether to grant consent, as will considerations as to how the new (or expanded) heat network:

- would contribute to a reduction in greenhouse gas emissions, and the timescales in which it does this;
- would contribute to a reduction in fuel poverty;
- could have sufficient storage capacity to deal with supply issues and to be able to work with the wider energy system;
- is discouraged from holding of a right to develop with no intention to act upon it through potential requirements to commence and complete construction by a specific date; and
- would use sources of local waste heat.

40. In this way, the Bill will ensure that the sector is subject to a similar consenting regime as that for other energy utilities, such as under the Electricity Act 1989 consents process<sup>22</sup>.

41. The Scottish Government believes that this is necessary given the essential nature of the services that are being provided through a heat network, and the potential scale of the infrastructure. It is also critical to ensuring that schemes contribute fully to Scotland's statutory climate change and fuel poverty targets.

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<sup>22</sup> Energy Infrastructure: Energy Consents, the Scottish Government, accessed: 28 January 2020.

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## **Consenting authority**

42. The Scottish Government recognises that, by their nature, heat networks are a local infrastructure project and as such, there is a clear need for local knowledge and circumstances to be considered in approving any new developments.

43. However, as a significant number of heat networks that have emerged in Scotland to date have been led by (or otherwise involved) local authorities, the granting of Heat Network Consent by local authorities would present a clear risk of self-regulation.

44. The Bill overcomes this risk by making provision for Heat Network Consent to be awarded by the Scottish Ministers on a nationwide basis, with a statutory obligation to consult the relevant local authorities to ensure sufficient local input before a decision is taken.

45. Furthermore, this approach would allow the Scottish Ministers to draw on the expertise which has been established within the Scottish Government in granting consents for renewable energy generation. The award of Heat Network Consent by the Scottish Ministers will maximise economies of scale, reduce resource implications for local authorities and create the opportunity for savings in wider public finances through efficiencies. This more centralised approach also recognises that the growth of the sector is likely to be uneven across Scotland and therefore avoids the need to establish a consenting function in each Scottish local authority.

## **Deemed planning permission**

46. The Scottish Government recognises that the introduction of Heat Network Consent will create new costs and administrative processes for the sector. The Scottish Government also notes that there are already significant planning approval processes for potential heat network developments.

47. The Bill intends to aid developers by enabling the Scottish Ministers to grant Deemed Planning Permission as part of a Heat Network Consent. The intention is to minimise the burden placed on heat network developers by rolling these applications into one to avoid duplication, while also providing both the Scottish Ministers and the relevant Planning Authority with the information that is needed.

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48. A similar approach is being taken in the existing energy consents process in Scotland, where the planning permission can be deemed to be granted by the Scottish Ministers as part of one application process that is administered by them.

### **Part 3 – Heat network zones**

#### **Policy intention**

49. A significant challenge in meeting the Scottish Government’s ambitions and requirements for heat networks is that, to date, deployment in Scotland has been typified by ad hoc developments, often to meet the needs of a single organisation. To fully maximise deployment of heat networks strategic planning is required to identify the most suitable areas and key anchor loads (buildings) which support network development and operation. Furthermore, strategic planning can maximise the use of sources of waste or surplus heat or constrained renewable energy generation to power heat networks. Strategic planning also provides greater certainty of network expansion which enables infrastructure to be oversized<sup>23</sup> in earlier stages of development.

50. Currently local authorities are encouraged to develop Heat Network Strategies and Scottish Planning Policy encourages Local Development Plans to co-locate developments with high heat demand with sources of heat supply<sup>24</sup>. Furthermore, since 2017 the Scottish Government has supported local authorities to pilot the development of Local Heat & Energy Efficiency Strategies (LHEES)<sup>25</sup>, which include the identification of strategic heat network zones.

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<sup>23</sup> For the majority of heat networks, the cost of installing the primary pipe network is the greatest capital cost. It is therefore important to understand the expected future capacity of the heat network to ensure the primary pipe network is correctly sized. Oversizing increases construction cost and reduces operational efficiency, while undersizing may constrain the scope for future expansion, or require pipes to be replaced during their useful lifetime.

<sup>24</sup> Scottish Planning Policy, the Scottish Government, 23 June 2014, accessed: 28 January 2020.

<sup>25</sup> Energy Efficiency: Energy Efficient Scotland, the Scottish Government, accessed: 28 January 2020.

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51. Despite this, the Scottish Government has not seen a fully strategic approach to planning for heat networks to date, and this has led to a patchwork of different approaches and methodologies which are not standardised across Scotland. This has allowed for some heat network developments to “cherry pick” the best sites, which risks undermining longer term growth of networks in some areas.

52. In light of this, and given the Scottish Parliament’s devolved power to legislate for heat networks, the Scottish Government is keen to fully identify and unlock the potential of the heat network sector now. Identifying and designating Heat Network Zones will provide the heat network sector with greater awareness of development opportunities within Scotland; and set a boundary in which supporting actions aimed at reducing the demand risk faced by heat network developers can be suitably targeted.

53. That is why the Bill will provide a power to designate Heat Network Zones. The Bill will place a duty on local authorities to consider designating Heat Network Zones, which each local authority can discharge as follows:

- a) undertake the designation of Heat Network Zones within its area;
- b) request the Scottish Ministers to undertake the designation of Heat Network Zones within its area, on its behalf; or
- c) not undertake the designation of Heat Network Zones within its area.

54. This flexible approach is taken to ensure that those local authorities who may not possess the capacity and resources to undertake heat network zoning at that time are not obliged to do so, but also ensures the Scottish Government maximises the number of Heat Network Zones identified in Scotland by enabling local authorities to refer this work to the Scottish Ministers.

55. The Scottish Government remains committed to developing, and placing on a statutory basis, LHEES. The identification and designation of Heat Network Zones as provided for in this Bill will form a core component of wider LHEES, which will also identify the potential for improving the energy performance of buildings and the deployment of other forms of renewable and low carbon heat, beyond heat networks.

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## Recovery of Waste Heat

56. If placed in proximity to sources of waste heat or constrained renewable generation, heat networks can use this excess energy for the benefit of the wider energy system. This is in line with the heat hierarchy set out in the Scottish Government's Heat Policy Statement<sup>26</sup>.

57. A number of academic and third sector analyses, such as by Imperial College London and Element Energy, have indicated that waste heat sources (e.g. heat recovered from industrial or commercial processes or sewers) can provide some of the most cost-effective and low carbon heat sources for heat networks<sup>27 28 29</sup>.

58. Exact estimates of the potential heat demand that may be met by waste heat in Scotland are not known. However, the Scottish Government has commissioned research to map this resource as it recognises that its recovery can contribute to Scotland's climate change targets. This research will identify potential usable sources of heat that are not currently being used, and for each source:

- identify the heat sources and their current and future size, including the potential for onsite efficiency;
- identify key characteristics of these sources; and
- use mapping to identify what proportion of each of the heat sources is too remote from concentrations of heat demand to realistically be used in heat networks.

59. As part of its engagement with Energy Intensive Industries (EII), the Scottish Government published a Discussion Paper in April 2019 which

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<sup>26</sup> Heat Policy Statement: Towards Decarbonising Heat: Maximising the Opportunities for Scotland, the Scottish Government, 11 June 2015.

<sup>27</sup> Research on District Heating and Local Approaches to Decarbonisation, Element Energy, 20 November 2015.

<sup>28</sup> National Comprehensive Assessment of the Potential for Combined Heat and Power and District Heating and Cooling in the UK, Ricardo-EAE, 16 December 2015.

<sup>29</sup> The Potential for Recovering and Using Surplus Heat from Industry, Element Energy and Imperial College, 5 March 2014.

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sought views on the challenges and opportunities of industrial decarbonisation<sup>30</sup>.

60. The Scottish Government believes that, through Heat Network Zones, heat networks can be deployed more strategically to make use of local surplus heat sources. The process for designating Heat Network Zones will be determined by regulations, but it is the Scottish Government's intention that a key consideration will be the availability of surplus waste heat.

61. This will be supplemented by placing obligations on Heat Networks Licence holders – through subsequent regulations – to further or promote the use of waste heat as a condition of participation in the market.

## **Part 4 – Heat network zone permits**

### **Policy intention**

62. To meet the Scottish Government's ambitions for a greater deployment of heat networks in Scotland, and to contribute to climate change targets in turn, it will be important to ensure that the opportunities identified through Heat Network Zones are delivered.

63. To date individual smaller-scale projects have been more common in Scotland – for example, there are a number of heat networks which have developed to serve single organisations and their buildings (e.g. university campuses and hospitals). Schemes operated by individual, single organisations may not be compatible or interoperable. This limits their scope to expand much beyond their original buildings and to join up with other networks. Interoperability is commonly seen in Denmark and Sweden, among other countries, and has enabled schemes to grow to supply wider districts.

64. The private sector and investors have indicated that they are interested in developing larger-scale projects, subject to the creation of circumstances in which investment carries less risk, including greater assurance of demand, and where projects are guided by the public sector through zoning. The creation of exclusive zones and natural monopolies, following a competitive process, provides investors with assurances

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<sup>30</sup> Decarbonising Scotland's Industrial Sectors and Sites, the Scottish Government, 29 April 2019.

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regarding a potential large-scale customer base, and in turn allows business plans to be developed more confidently and for heat networks which are appropriately sized to meet future demand.

65. This approach is common across Europe. In December 2018, ClimateXChange (CXC)<sup>31</sup> published research comparing the regulatory frameworks for heat networks in several European countries (Denmark, Germany, Hungary, Norway, the Netherlands, Poland and Sweden) for the Scottish Government to consider in the development of its legislation<sup>32</sup>.

66. CXC found that:

“Licensing, zoning or the awarding of concessions are key mechanisms for regulation in most countries reviewed. These allow for stabilisation of the market and were generally perceived as important and useful by stakeholders.”<sup>33</sup>

67. CXC also demonstrated that the creation of exclusive zones for developing and operating heat networks had been achieved legislatively in these countries.

68. The Bill aims to maximise the deployment of large, strategically-sited heat networks by introducing Heat Network Zone Permits. These will offer the market the opportunity to be the sole heat network with a Heat Network Zone, following a robust initial competitive process for that right.

69. This provides the Heat Network Zone Permit holder with increased assurance over the potential customer base from which to recover the initial infrastructure costs, without the uncertainty caused by a potential future competitor.

70. The designation of a Heat Network Zone does not oblige the Scottish Ministers to award a Heat Network Zone Permit, but it will be a powerful

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<sup>31</sup> ClimateXChange provides independent advice, research and analysis to support the Scottish Government as it develops and implements policies on adapting to the changing climate and the transition to a low carbon society.

<sup>32</sup> Lessons from European Regulation and Practice for Scottish District Heating Regulation, ClimateXChange, December 2018.

<sup>33</sup> IBID.

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tool available for use in delivering the infrastructure in those areas that have been deemed most suitable for heat networks.

## **Part 5 – Building assessment reports**

### **Policy you Intention**

71. To designate Heat Network Zones it will be important to know the location and energy performance of local buildings to identify the most appropriate heat decarbonisation solutions.

72. Heat demand estimates for Scottish properties are calculated in and shared through the Scotland Heat Map<sup>34</sup>. This tool is available to assist in planning for more efficient and lower carbon heat supply development. The Heat Map supports development planning by assisting in pre-feasibility assessments and costings of heat network developments.

73. However, as part of the interim evaluation of the LHEES pilot projects<sup>35</sup>, it was widely reported that there is a lack of data on the energy performance of non-domestic buildings and this risks resulting in Heat Network Zones which are not as robust as they otherwise might be. This may increase the risk that their designation is challenged.

74. To ensure sufficient and reliable data is available, the Bill will place a duty, initially, on public sector building owners to undertake an assessment of the viability of their buildings to connect to a heat network.

75. There are around 20,000 public sector buildings in Scotland<sup>36</sup>, data from which would significantly enhance the veracity of Heat Network Zones as well as raise awareness of any opportunities to connect to low carbon heat networks within public sector organisations.

76. Buildings with large-scale heat demand can act as an ‘anchor load’ for heat network developments by providing a substantial, long-term, secure customer. Public sector buildings are especially useful as anchor

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<sup>34</sup> Scotland Heat Map, the Scottish Government, accessed: 27 January 2020. <https://www.gov.scot/publications/scotland-heat-map-documents/>

<sup>35</sup> Local Heat and Energy Efficiency Strategies: Phase 1 Pilots: Social Evaluation Report, the Scottish Government, 6 September 2019.

<sup>36</sup> Energy Efficient Scotland: Route Map, the Scottish Government, 2 May 2018.

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loads as they often provide predictable demand profiles. For this reason, the Bill also requires that Building Assessment Reports are shared with the relevant local authority and the Scottish Ministers in order that they can act to encourage such buildings to connect where feasible.

77. The Scottish Government does not intend or expect the preparation of a building assessment report to be a resource-intensive exercise. It is envisaged that this role would be performed by a Building, Facilities or Energy Manager and indeed, it is expected that most, if not all, of the information that may be required would already be available to public sector bodies through their climate change reporting, as required by the Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015<sup>37</sup>, or through information provided to them from, for example, their current energy supplier.

## **Part 6 – Powers of licence holders**

### **Policy intention**

78. Utility providers – such as gas and electricity companies – are generally considered to be ‘statutory undertakers’, with their activities and responsibilities defined in primary legislation e.g. the Electricity Act 1989<sup>38</sup>. As ‘statutory undertakers’ these utilities are given various special rights and powers that enable them to carry out their activities.

79. The Expert Commission on District Heating, established by the Scottish Government in 2012, has advised the Scottish Government on the steps it should take to ensure a major move to heat networks in Scotland.

80. In its report to the Scottish Government<sup>39</sup>, the Expert Commission recognised that heat network developers report multiple problems because there is no right of wayleave for district heating pipes, which can often lead to longer and more expensive pipe runs, legal delays etc. The Expert Commission also found that there is a need for a right of access for repairs

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<sup>37</sup> The Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015, the Scottish Parliament, 22 November 2015.

<sup>38</sup> Electricity Act 1989, the UK Parliament, 27 July 1989.

<sup>39</sup> Recommendations to the Scottish Government, the Expert Commission on District Heating, 14 November 2012.

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and the right to gain access to a property to install a prepayment meter if the customer defaults. Therefore it recommended that:

“The Scottish Government should ensure that district heating companies have the same wayleave and access rights as other utilities.”

81. The Scottish Government accepts this view, as the ability to install infrastructure will be crucial to the construction of many heat network projects. If not provided with such rights, some projects will continue to be delayed during construction or in responding to outages, due to third party complications if they cannot exercise greater enabling powers.

82. The Bill therefore moves to place licensed heat networks developers and operators on a level playing field with other utilities by providing them with new rights in relation to:

- the compulsory acquisition of land;
- wayleaves;
- survey works; and
- access to land to carry out their work.

83. The Bill also requires the licence holder to take care not to cause damage to land or property in exercising its rights, and enables compensation to be paid where necessary.

84. Research by the Energy Technologies Institute found that civil engineering (i.e. the digging of trenches and the laying of pipes) accounts for roughly 40% of a network’s capital costs<sup>40</sup>. These costs can be reduced through granting greater utility rights to heat network developers, which in turn can reduce costs for consumers and facilitate investment in projects.

85. The Scottish Government intends to bring forward an amendment during the passage of the Bill to provide licence holders with road work rights. The Bill does not currently make provision for road work rights as the Scottish Government requires to undertake further engagement with relevant roads stakeholders to ensure that any such provisions are

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<sup>40</sup> District Heat Networks in the UK: Potential, Barriers and Opportunities, the Energy Technologies Institute, 12 November 2018.

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compatible with the long-established governance processes regarding the access to roads by utility providers.

## **Network wayleave right**

86. Scotland is heavily reliant on mains gas to meet its heat demand, with electrical heating the second-most commonly-used fuel. This pattern is replicated throughout the rest of the UK<sup>41</sup>. As such nationwide gas and electricity networks have extremely large customer-bases from which to recover the costs of construction and maintenance on a socialised basis.

87. In contrast, heat networks are a solution aimed at coupling local heat demand with local supply. They are therefore much more contained, resulting in fewer customers from whom to recover the substantial upfront costs of development.

88. To offset this, heat networks must be used for many years. While this is very possible with modern heat networks having lifetimes of fifty years or more, it relies on coordination across a range of different stakeholders and long-term contracts with customers to provide a degree of confidence in the long-term use of the system.

89. This means that investors must forecast the level of heat that potential customers will use and how this might change over time as the network develops. This can be challenging and is known as ‘demand risk’ and results in increased costs of finance which has been identified as the main barrier to the growth of the market.

90. However, an agreement to supply a building(s) with significant heat demand can provide investor confidence by acting as an ‘anchor load’. These are often a fundamental element of the business case for a heat network because the marginal costs of connecting any additional buildings, often domestic, are then much lower.

91. The Bill seeks to overcome this uncertainty of demand by creating a new ‘network wayleave right’ which will enable Heat Networks Licence

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<sup>41</sup> Scottish House Condition Survey: 2017 Key Findings, the Scottish Government, 4 December 2018.

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holders to request from the Scottish Ministers the right to install its pipework and other apparatus up to a building.

92. The building owner would be under no obligation to use the system or to become a customer of the heat network. It would be incumbent on the operator of a heat target to design a heat tariff which is an attractive proposition to building owners and tenants.

93. However, the Scottish Government believes that the creation of a network wayleave right can provide greater assurances over heat demand as developers could now install pipework to buildings from the outset of a project. While it recognises that this carries a degree of risk, there are three clear trigger points at which heat may be off-taken:

- Firstly, as at present a building owner may agree to offtake heat prior to development. However, with a new ability to pre-install pipework, the licence-holder would be able to continue negotiations with a building owner and later connect the building without having to revisit the site and reinstall the pipework at greater cost;
- Secondly, at the end of life of a building's current heating system, the building owner would have a readily-available, low carbon heating option to use; and
- Thirdly, at a change of tenure, any new building owner would also have a readily-available low carbon heating option to use.

94. This approach could also be supported by any future funding to incentivise building owners to connect to the heat networks.

95. A stronger clause mandating use or limiting the source of heating only to a heat network is not proposed at this stage. It is unclear how an obligation on building owners to use the heat network or to become a customer could be legislated for in a practical sense as a contractual agreement would still be needed between both parties for the supply of heat, hot water or cooling. Such an approach would likely require the regulation of pricing where connection had been secured on a 'mandatory' or 'obligatory' basis, to safeguard consumers, but the Scottish Government believes that the Parliament may not have devolved competence to provide for this in the Bill.

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## **Part 7 – Key heat network assets**

### **Policy intention**

96. The Bill requires those seeking to operate new heat networks (and those seeking to extend an existing network) to provide information on “key assets” required for the operation of the network. The Scottish Ministers are then required to prepare a list of these assets as part of the process of granting a Heat Network Consent.

97. The Bill enables the Scottish Ministers to make a transfer scheme to transfer or create rights over the key assets listed. This is to ensure that the operation of a heat network can be taken over by a third party (or the Scottish Ministers or the relevant local authority) in certain circumstances. The ability to make such a transfer is essential in two, broad circumstances:

- Firstly, in the event that there is a failure in supply of some kind (e.g. due to the liquidation of the heat network operator or the revocation of a Heat Networks Licence, Consent or Permit); and
- Secondly, when a Heat Network Zone Permit comes to the end of its term and a competition for the next permit holder is to be held.

### **Supplier of last resort**

98. The creation of Transfer Schemes provides a means through which a robust process can be put in place to ensure the continued operation of the infrastructure in the event of insolvency (or another failure of supply) on the part of the operator – i.e. a ‘Supplier of last resort’ (SoLR).

99. The Scottish Government views such a provision as a key outcome of the Bill, given the essential nature of the service and given that it has witnessed SoLR events with increasing regularity in the gas and electricity markets.

100. Ofgem has put in place processes to deal with this in the regulated energy markets but its SoLR procedures apply to suppliers only (i.e. those who buy energy from the wholesale markets and sell to consumers and provide metering and billing functions to customers)<sup>42</sup>. As such, it is not analogous with Scotland’s heat network market at present, where it is

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<sup>42</sup> Guidance on Supplier of Last Resort and Energy Supply Company Administration Orders, Ofgem, 21 October 2016.

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common for one organisation to carry out all functions across the network, including owning and operating the source of heat; owning, operating and maintaining the heat network itself; and selling its thermal energy to end-users.

101. This makes it much more challenging to ensure the continued operation of a heat network, and would be ineffective to impose one process on the entire market. Therefore, the overall aim is instead to ensure that the operation of a heat network can be taken over by a third party where there is a failure in supply for whatever reason.

### **Heat network zone permits**

102. In order to comply with competition law, and in the interests of fairness, Heat Network Zone Permits will not last in perpetuity and there will be an opportunity for others to apply to operate the network in future, once the capital costs of the infrastructure have been recovered.

103. To ensure that this is done on a competitive basis, it may be necessary to invoke a transfer scheme in order that the incoming operator has rights to use the heat network assets. This is to ensure that an incumbent operator is not in an unfairly advantageous position.

104. In order to ensure that this process works in practice, the Bill requires that each heat network has an up-to-date schedule of assets – i.e. the land and buildings and apparatus, plant and equipment etc. which are integral to the operation of the heat network. This enables the owners of such land and property to be informed that these have been included in the schedule of assets and the consequences of this. The Scottish Ministers will then be placed to determine whether a heat network operator has sufficient right to use the assets listed in the schedule for the purposes of a heat network, prior to granting a Heat Network Consent. This ensures that a Transfer Scheme can be initiated by the Scottish Ministers, if needed.

105. This is the broad effect that Transfer Schemes will have but the Scottish Government wishes to consult on the implementation of these provisions with industry, local government and others involved in the day-to-day operation of heat networks. As such, the Bill creates a broad power for the Scottish Ministers to make further provision for or in connection with a transfer scheme once such consultation has been undertaken.

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## Alternative approaches

106. The Scottish Government has considered two alternative approaches to legislating in the way set out above.

107. Firstly, the Scottish Government has considered not legislating in this area, but instead continuing to provide funding and other support to the sector.

108. At present, it is estimated that there are over 800 heat networks in Scotland, serving over 25,000 customers<sup>43</sup>.

109. The emergence of these schemes is welcome, as not only are they likely to have reduced Scotland's carbon emissions and fuel poverty rate, they have helped to raise awareness of the technology in Scotland and have proven its application here.

110. Alongside its partners, the Scottish Government has done a significant amount to support heat network schemes in Scotland. For instance, the Scottish Government has:

- established the District Heating Loan Fund (DHLF)<sup>44</sup>, offering low rate, unsecured capital loans to overcome a range of technical and financial barriers. Since 2011, the Scottish Government has offered over £15 million to 50 different projects across Scotland, providing affordable warmth to householders, creating local employment, reducing costs for businesses and cutting emissions;
- launched the Low Carbon Infrastructure Transition Programme (LCITP)<sup>45</sup> to support the acceleration of low carbon infrastructure projects across the public, private and community sectors. LCITP can support the development of investment grade business cases to help heat network projects (and others) secure public and

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<sup>43</sup> Energy Trends: March 2018, Special Feature Article – Experimental Statistics on Heat Networks, BEIS, 29 March 2018.

<sup>44</sup> District Heating Loan Fund, Energy Saving Trust, accessed: 27 January 2020.

<sup>45</sup> Renewable and Low Carbon Energy: Low Carbon Infrastructure Transition Programme, the Scottish Government, accessed: 27 January 2020.

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private capital finance and can provide financial support for capital;

- formed the Heat Network Partnership<sup>46</sup> to coordinate support identifying and developing district heating projects and a strategic approach by local authorities, to build capacity, and to share best practice;
- created Scotland's Heat Map, with versions available to the public and to local authorities and other key public sector partners; and
- introduced a 50% reduction in Non-domestic Rates for district heating schemes in April 2017<sup>47</sup>.

111. Despite this, estimates suggest that around 1% of Scotland's total heat demand was met by heat networks at March 2018<sup>48</sup>. The National Comprehensive Assessment of District Heating and Cooling of 2015, estimated that 6.7% of Scotland's heat demand could be met by heat networks in 2025<sup>49</sup>.

112. In light of this, it would appear that a continued reliance on unregulated market forces – in combination with Scottish Government and other public funding – will not be sufficient to deploy heat networks at the scale which is required by the climate change targets, and which research suggests is achievable. Evidence and feedback from the sector has consistently shown that regulation of the market is required. As such, the Scottish Government has opted not to pursue a non-legislative approach.

113. A second alternative approach which the Scottish Government considered was introducing legislation with minimal regulation (e.g. the introduction of a Heat Network Licensing system only).

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<sup>46</sup> District Heating Scotland, Heat Network Partnership, accessed: 27 January 2020.

<sup>47</sup> The Non-Domestic Rates (District Heating Relief) (Scotland) Regulations 2017, the Scottish Parliament, 1 April 2017.

<sup>48</sup> Energy Trends: March 2018, Special Feature Article – Experimental Statistics on Heat Networks, BEIS, 29 March 2018.

<sup>49</sup> National Comprehensive Assessment of the Potential for Combined Heat and Power and District Heating and Cooling in the UK, Ricardo-EAE, 16 December 2015.

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114. Research undertaken on behalf of the Scottish Government to inform preparation of the Bill considered the impact that a range of policy interventions could have on the deployment of heat networks in Scotland.

115. The research estimated that, in the absence of legislation, heat networks in Scotland could reach 3.4 TWh of heat supply by 2050. It also found that a regulatory framework with minimal intervention could be expected to lead to up to an additional 3.6 TWh of heat supplied by heat networks by 2050, reaching a total of 7.0 TWh (equivalent to 8.5% of total 2018 non-electrical heat demand).

116. However, the same research found that stronger policy proposals to attract investment in the sector and to make use of renewable and/or waste heat through heat networks, could lead to a total of 9.6 TWh (equivalent to 12% of total 2018 non-electrical heat demand) of heat being supplied by heat networks in 2050.

117. Furthermore, the research found that, in the long-term, carbon savings in the order of 23% could be expected with the aid of stronger policy measures within legislation, whereas the carbon savings achieved through minimal intervention were expected to be marginal.

118. As such, the Scottish Government is confident that the policy proposals brought forward within the Bill is the correct approach. The Scottish Government notes that such an approach has also been called for, and well-evidenced, by stakeholders.

## Consultation

### Background

119. The Scottish Government has consulted extensively on heat network regulation, with two dedicated consultation documents:

- A scoping consultation published in January 2017<sup>50</sup> on broad regulatory scenarios for the sector. This consultation was drafted in collaboration with a Short Life Working Group commissioned by Scottish Ministers in October 2016; and

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<sup>50</sup> Consultation on Heat and Energy Efficiency Strategies, and Regulation of District Heating, the Scottish Government, 24 January 2017.

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- Specific policy proposals published in November 2017<sup>51</sup>, based on feedback received following the first consultation.

120. In addition, as part of the Energy Efficient Scotland consultation of March 2019<sup>52</sup>, the Scottish Government sought views on how it could support the heat networks sector to grow.

121. A full, independent analysis of responses to each of these consultations has been undertaken<sup>53 54 55</sup>.

## Summary of Consultation Findings

122. Respondents had a number of different priorities for the legislation, including the importance of attracting investment into the sector, tackling fuel poverty, consumer protection, and how to ensure security of supply to end users.

123. Almost all respondents, who provided a definitive response, agreed that, as heat networks become more widespread, it will need to become a licensed activity.

124. A number of stakeholders also supported the regulation of technical standards through licensing, as has been seen for other utilities.

125. A small number of respondents commented on who should become the licensing authority, with some suggesting a new Energy Agency, while

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<sup>51</sup> Scotland's Energy Efficiency Programme: Second Consultation on Local Heat & Energy Efficiency Strategies, and Regulation of District and Communal Heating, the Scottish Government, 14 November 2017.

<sup>52</sup> Energy Efficient Scotland: Consultation on Further Development of the Programme, the Scottish Government, 26 March 2019.

<sup>53</sup> Consultation on Heat and Energy Efficiency Strategies, and Regulation of District Heating: Analysis of Responses, Why Research, 14 November 2017.

<sup>54</sup> Energy Efficient Scotland: Analysis of Second Consultation on Local Heat & Energy Efficiency Strategies, and Regulation of District and Communal Heating, Why Research, 22 November 2018.

<sup>55</sup> Energy Efficient Scotland Development: Consultation Analysis, Craigforth, 16 December 2019.

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others said the Scottish Government or the Scottish Environmental Protection Agency (SEPA).

126. Many respondents supported introducing powers for local authorities to zone areas for heat networks and noted the opportunity for such zones to be aligned with other local plans, such as Local Development Plans.

127. However, there was no agreement on how zoning should be undertaken, with stakeholders suggesting that, for example, zones should be based on local heat sources or areas of demand. Others suggested that zones should cross local authority boundaries where appropriate.

128. There was general support for establishing 'exclusive concessions', with local authorities and those within the industry particularly supportive of this proposal, as a way to reduce the risk involved in developing new heat networks by giving long-term certainty and confidence regarding the demand for heat that the network could serve.

129. A number of respondents suggested that local authorities should be responsible for issuing and enforcing concessions in their areas due to the local knowledge they possess and because they are also responsible for other strategies, such as Local Development Plans.

130. However, several local authorities disagreed with this, and suggested that resource constraints, funding, skills and competing priorities all acted as barriers to taking on this role.

131. Many respondents said that anchor loads – those buildings that have a large and/or varied enough heat demand – are essential in making any new heat network scheme viable, but noted that there are often challenges in securing agreements to connect such buildings.

132. Views were mixed on whether to compel existing buildings to connect to heat networks. Even among those who broadly supported the proposed power, several respondents caveated their responses, for example feeling that any such power should only be used as a last resort.

133. Another theme in response to consultations was the consensus that heat network operators and developers should be given rights such as

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those which other utility companies possess, in order to undertake their construction and maintenance more easily and efficiently.

## **Heat networks regulation working group**

134. The Minister for Energy, Connectivity and the Islands established the Heat Networks Regulation Working Group<sup>56</sup> in May 2019 to provide advice to the Scottish Government on how best to support the accelerated deployment of heat networks in response to the global climate emergency, ahead of the preparation of legislation.

135. A Recommendations Report<sup>57</sup> from the Group was published on 3 December 2019, and in summary, it advised the Scottish Government that:

- The heat networks market would benefit from the introduction of a Regulator.
- It was neutral on which body would be best suited for this role, but could see sense in a Scottish Regulator given that a counterpart in the wider UK has not been confirmed, the accelerated legislative timelines in Scotland and the additional functions likely to feature in the Scottish regulatory framework.
- However, the Group also agreed that should there be a Scottish Regulator, there should be alignment with any counterpart in the rest of the UK, as far as possible.
- The Group supported the principle of introducing licensing to the sector, provided that this was balanced by sufficient measures to support developers and that licences did not unduly burden smaller operators. Some Group members also advocated for a project-specific licence to tailor standards and fees.
- The Group welcomed the proposed introduction of zoning (through LHEES) and supported them being made a statutory duty for local authorities to develop. There was recognition that the creation of Heat Network Zones would be a positive step for the market.

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<sup>56</sup> Heat Networks Regulation Working Group: Recommendations, the Scottish Government, accessed: 27 January 2020.

<sup>57</sup> Heat Networks Regulation Working Group: Interim Recommendations Report, the Heat Networks Regulation Working Group, 3 December 2019.

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- However, the Group also requested greater clarity over how heat network project identification and appraisal will be carried out, and felt that heat network developers should be involved in the development of zoning methodologies to ensure that opportunities were fully identified and deliverable.
- Despite the introduction of LHEES being welcomed (and despite heat network developers not being averse to owning a degree of risk), they would not alone significantly change the risk profile for investors. More (beyond that proposed in the Scottish Government's second consultation on Heat Network Regulation) would be needed to support the growth of load which the market currently perceives to be uncertain and risky. There were several proposals to achieve this which some of the Group advocated for, including:
  - For heat network developers and other organisations to be able to compete to be awarded exclusivity within identified Heat Network Zones; and
  - An obligation to connect to a heat network being placed on large anchor load non-domestic buildings within identified Heat Network Zones to address decarbonisation of existing buildings as well as new build.
- The Group felt that the consenting proposal should be reconsidered in order to reduce burden on both local authorities and network developers, and to reduce the risk of local authorities effectively self-regulating.
- It was agreed that statutory undertaker rights should be conferred on heat network developers and that this would be a beneficial change. However, it was noted that this, on its own, would not sufficiently de-risk investment in heat networks.

136. The Group provided strong evidence in support of its advice and as such, and within the context of the global climate emergency and Scotland's increased climate change targets, the Scottish Government built upon the proposals it consulted on in November 2017, and these are set out within the Heat Networks (Scotland) Bill and throughout this document, having been broadly agreed in principal with stakeholders.

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Effects on equal opportunities, human rights, island communities, local government, sustainable development etc.

### **Equal opportunities**

137. The Bill is intended to apply equally to those affected by its provisions. An Equality Impact Assessment (EQIA) has been conducted in order to ascertain the impact of the Bill on equality groups. The EQIA has confirmed that the provisions of the Bill will not directly or indirectly discriminate on the basis of age, disability, gender reassignment, sex (including pregnancy and maternity), race, religion or belief or sexual orientation. The EQIA will be published on the Scottish Government website shortly after the introduction of the Bill.

### **Human rights**

138. The Bill is considered by the Scottish Government to be fully compatible with the European Convention on Human Rights (ECHR).

139. The effect of some provisions in the Bill will be to enable Scottish Ministers to determine whether there should be a connection between a particular heat network and a particular building. Article 1 to the first Protocol to the ECHR recognises that a person may be deprived of possessions in the public interest, as long as that is subject to conditions imposed by law. While the Bill will not deprive property owners of their possessions, the Article confirms that a State retains the right to control the use of property in the public interest. It is for the Scottish Parliament, as the democratically elected institution of the State, to determine where the public interest lies here, and the appropriate balance between the private and public interests.

140. The Scottish Government considers that the sanctions provided for in the Bill are proportionate and fair. The Scottish Government also considers that the provisions of the Bill are compliant with Article 6 of the ECHR as a person whose civil rights may be determined, for example, by the grant or refusal of a heat network licence under Part 1 or the grant or refusal of a heat network consent under Part 2, would be entitled to challenge the lawfulness of such a decision by means of judicial review.

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## **Island communities**

141. The Bill will apply to all communities across Scotland, including island communities. The Scottish Government is satisfied that the Bill will have no differential effect on island communities.

142. Rather, the Scottish Government anticipates that as the provisions of the Bill can be expected to help attract greater private investment into the heat networks sector it will more readily support the development of heat networks where they are appropriate in island communities.

## **Local government**

143. The Bill will have an impact on local authorities and this is expected to occur directly in two areas.

144. Firstly, the introduction of a requirement on public sector bodies to undertake an assessment of the suitability of its building stock to connect to a heat network will create new administrative costs for local authorities and others.

145. Secondly, the Bill provides local authorities with the power to designate Heat Network Zones within their areas. This process will result in administrative costs for local authorities, although these may be avoided by opting not to undertake the designation of Heat Network Zones or to reduce these costs by working jointly with others to designate such zones across boundaries, where appropriate.

146. The impacts on the business of local authorities has been captured in the Financial Memorandum and also the Business and Regulatory Impact Assessment which has been published on the Scottish Government website.

147. The main financial implications that the local authorities are likely to incur as a result of Heat Networks (Scotland) Bill are associated with Heat Network Consent, Heat Network Zones and Building Assessment Reports. The Total quantified cost on Scottish Local Authorities over 10 years is estimated to range between £15,872 and £47,617 in nominal prices and are associated with determination of decision regarding Heat Network Zoning.

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148. The Scottish Government will develop guidance and methodologies to support local authorities (and other public bodies, where required) to undertake these functions.

## **Sustainable development**

149. The effect of the Bill in terms of the three pillars of sustainability (environmental protection, social equity and economic viability) are as follows:

- environmental effects: a pre-screening report confirmed that the Bill has minimal or no impact on the environment and consequently that a full Strategic Environmental Assessment does not need to be undertaken. It is therefore exempt for the purposes of section 7 of the Environmental Assessment (Scotland) Act 2005<sup>58</sup>. More broadly, the aim of the Bill is to deploy more heat networks in Scotland, particularly those making use of renewables and recovered waste heat. As such, it is expected to have an overall positive effect in reducing carbon emissions caused by heating buildings in Scotland, thereby contributing to the country's climate change targets.
- social effects: the Scottish Government carried out a Fairer Scotland Duty Assessment in late-2019 and early-2020. The evidence provided found that while a lack of consumer protection in the heat networks market was a concern, the Bill had sufficient safeguards in place to ensure that the impacts on social equality could be considered. It was noted that as heat networks can provide customers with energy savings in the right circumstances, a greater proliferation of the schemes is likely to create improved outcomes for those with low income as well as providing a boost to local economies and the creation of job opportunities in the labour market.
- economic effects: the Scottish Government has estimated the costs that the Bill gives rise to for the Scottish Administration, local authorities, businesses, individuals and other bodies, and the time over which these are expected to occur. These estimates are set out in the Financial Memorandum which accompanies the Bill.

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<sup>58</sup> Environmental Assessment (Scotland) Act 2005, the Scottish Parliament, 14 December 2005.

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150. The Scottish Government's National Performance Framework<sup>59</sup> sets out a clear purpose for Scotland – to focus on creating a more successful country with opportunities for all of Scotland to flourish through increased wellbeing, and sustainable and inclusive economic growth. The National Performance Framework embeds the UN Sustainable Development Goals<sup>60</sup>. This Bill contributes towards the Scottish Government achieving this purpose and therefore supports United Nations Sustainable Development Goal 8: Decent work and economic growth.

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<sup>59</sup> Scotland's National Performance Framework: Our Purpose, Values and National Outcomes, the Scottish Government, 28 March 2019.

<sup>60</sup> Sustainable Development Goals: About the Sustainable Development Goals, the United Nations, accessed: 27 January 2020.

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## Policy Memorandum

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