

# Net Zero, Energy and Transport Committee

18<sup>th</sup> Meeting, 2023 (Session 6)

Tuesday, 23 May 2023

Cover note: The Heat Networks (Heat Network Zones and Building Assessment Reports) (Scotland) Regulations 2023 (SSI 2023/123)

**Title of Instrument:** [The Heat Networks \(Heat Network Zones and Building Assessment Reports\) \(Scotland\) Regulations 2023](#) (SSI 2023/123)

**Type of Instrument:** Negative

**Laid Date:** 20 April 2023

**Circulated to Members:** 21 April 2023

**Meeting Date:** 23 May 2023

**Minister to attend meeting:** No

**Motion for annulment lodged:** No

**Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee?** No

**Reporting deadline:** 29 May 2023

## Recommendation

1. The Committee is invited to consider any issues which it wishes to raise on the instrument.
2. An electronic copy of the Regulations is available at: <https://www.legislation.gov.uk/ssi/2023/123/contents/made>.

3. A copy of the Scottish Government’s Explanatory and Policy Notes are included in the Annexe.

## Purpose

4. This instrument makes provision under the [Heat Networks \(Scotland\) Act 2021](#) (“the Act”) in relation to heat network zones (Part 3 of the Act) and building assessment reports (Part 5 of the Act).

## Delegated Powers and Law Reform Committee consideration

5. At its meeting on 2 May 2023, the Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit. [Read the Official Report – 2 May 2023](#)

## Procedure for Negative Instruments

6. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).

7. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament. If that is also agreed to, Scottish Ministers must revoke the instrument. At present no motion to annul has been laid for this instrument.

8. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument.

9. If no motion to annul has been laid then, at the conclusion of consideration of the instrument, the Committee will be invited to agree to make no recommendations in relation to the instrument.

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Net Zero, Energy and Transport Committee

# Annexe A

## Scottish Government Explanatory Note

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision under the Heat Networks (Scotland) Act 2021 (“the Act”) in relation to heat network zones (Part 3 of the Act) and building assessment reports (Part 5 of the Act).

Regulation 2 provides how a local authority are to publish a statement of review of heat network zoning prepared under section 47(6) of the Act.

Regulation 3 provides who a local authority must consult before deciding whether to designate an area as a heat network zone, and sets out requirements for publishing the details of their consultation.

Regulation 4 specifies how a local authority are to publish the details of a designated heat network zone.

Regulation 5 provides who a local authority must consult before deciding whether to vary a heat network zone, and regulation 6 specifies how they are to publish the details of a varied heat network zone.

Regulation 7 specifies when a building assessment report must be prepared, and regulation 8 specifies that non-domestic buildings with an annual heat demand of less than 73 megawatt-hours per year are exempt from the requirement to prepare a building assessment report under section 63 of the Act.

## Scottish Government Policy Note

### POLICY NOTE

#### THE HEAT NETWORKS (HEAT NETWORK ZONES AND BUILDING ASSESSMENT REPORTS) (SCOTLAND) REGULATIONS 2023

SSI 2023/123

The above instrument was made in exercise of the powers conferred by sections 47(7), 48(2) and (4), 50(3) and (5), 63(3), and 64(2) of the Heat Networks (Scotland) Act 2021. The instrument is subject to the negative procedure.

This instrument makes provisions in respect of Part 3 of the Act (heat network zones) and Part 5 of the Act (building assessment reports).

### Policy Objectives

1. The Climate Change (Emissions Reduction Targets) Act 2019, requires Scotland to reach net zero greenhouse gas emissions by 2045, with interim reductions of 75% required by 2030, and 90% by 2040. A major challenge to meeting these targets will be reducing the emissions caused by heating the country's homes and other buildings. One way of meeting this challenge is heat networks, which 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. 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.
2. The Heat Networks (Scotland) Act 2021 (the Act), which received royal assent in March 2021, provides a legal framework for the establishment of a regulatory system for heat networks in Scotland. The Act is also intended to encourage greater deployment of heat networks in Scotland, in order to help reduce emissions from heating homes and buildings.
3. The Act contains a wide range of provisions and powers that will allow Scottish Ministers to implement this new regulatory system.
4. Since the passing of the Act, the Scottish Government has been working on detailed proposals for implementing this regulatory system, which is being delivered in four "work packages. The provisions within this SSI deliver the first of these work packages, covering Parts 3 and 5 of the Act: Building Assessment Reports and Heat Networks Zones.
5. Alongside these Regulations, detailed statutory guidance has been prepared to assist those completing the relevant forms and processes. Heat network zone guidance will be published under section 54 of the Act, and building assessment report guidance will be published under section 66 of the Act. These documents, together with the associated templates and proformas, will be available on the Scottish Government website from the proposed coming into force date of these regulations, on 30 May 2023.

### **Consultation and Engagement**

6. Due to the highly technical nature of these regulations and the guidance and proformas that accompany them, a 6 week targeted consultation was conducted, from 19 January 2023 to 1 March 2023. Over 100 organisations were consulted, including all 32 local authorities, and the full range of other public authorities and agencies. In addition, representative industry bodies, consultancies, law firms and private sector companies specialising in the design and development of heat networks were contacted.

### **Consultation responses**

7. There were 23 responses to the consultation, and these responses led to changes in not only the proposals for these regulations, but also to the guidance and templates/ proformas.

### **8. Impact assessments**

9. The following impact assessments were conducted in respect of the Heat Networks (Scotland) Act 2021 prior to it being passed by the Scottish Parliament:
- Business and Regulatory Impact Assessment
  - Equalities Impact Assessment
  - Fairer Duty Scotland Assessment
  - Island Communities Impact Assessment
  - Children’s Rights and Wellbeing Impact Assessment (screened out)
10. As this SSI will implement the provisions in the Act, no further impact assessments in these areas were carried out. However, a [Data Protection Impact Assessment](#) was carried out in respect of the building assessment report provisions in the regulations, proformas and guidance.

### **Financial Effects**

11. As indicated above, a business and regulatory impact assessment was completed in respect of the Heat Networks (Scotland) Regulations 2021. However, in addition, section 95 of the Act requires Scottish Ministers to prepare a strategy setting out the costs to local authorities in relation to their duties under this Act, and also setting out how they intend to fund this and ensure local authorities have the necessary capacity to fulfil their duties under the Act. Work is under way to prepare that strategy.

Mike Berry  
Scottish Government  
Directorate for Energy and Climate Change  
May 2023

## **Scottish Government - Other documents**

- [Data Protection Impact Assessment \(legislation.gov.uk\)](#)