

Heat Networks (Scotland) Bill

Business and Regulatory Impact Assessment

March 2020

HEAT NETWORKS (SCOTLAND) BILL

BUSINESS AND REGULATORY IMPACT ASSESSMENT

Title of proposal

1. Heat Networks (Scotland) Bill

Purpose and intended effect

Background

2. 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.

3. One of the major challenges to meeting these targets will be reducing the emissions caused by heating our homes and other buildings.

4. 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. 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 our 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 clearly demonstrated that heat networks will provide part of Scotland's future heat supply.

Objective

5. In light of this, the Programme for Government (PfG) 2019-2020 included a Heat Networks (Scotland) Bill as part of this year's legislative programme. 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.

6. The Bill will also contribute to the Scottish Government's target that 50% of all energy consumption come from renewables by 2030.

7. In bringing forward this legislation, the Scottish Government is also seeking to fulfil recommendations 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.

Rationale for Government Intervention

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

9. 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.

Consultation

Development Phase

10. In April 2019, the First Minister recognised that we are facing a global climate emergency.

11. In response, the Minister for Energy, Connectivity and the Islands established the Heat Networks Regulation Working Group 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.

12. A Recommendations Report¹ from the Heat Networks Regulation Working Group was published on 3 December 2019, and in summary, advised the Scottish Government that:

- The Group agreed 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.

¹ [Interim Recommendations Report](#), the Heat Networks Regulation Working Group, 3 December 2019.

- The Group welcomed the proposed introduction of zoning (through Local Heat and Energy Efficiency Strategies (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.
- 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.

13. 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.

Within Government

14. The Energy and Climate Change Directorate had direct contact and discussion with the following directorates and agencies during the development phase:

- Directorate for Housing and Social Justice (Better Homes Division);
- Directorate for Chief Economist (Office of the Chief Economic Adviser – Economic Analysis);
- Directorate for Justice (Criminal Justice, Access to Justice);
- Directorate for Local Government and Communities (Building Standards, Planning and Architecture);
- Directorate for Digital (Broadband);
- Directorate for Financial Management (Finance Programme Management Division);
- Scottish Procurement and Property Directorate (Collaborative Procurement – Utilities and Facilities);
- Directorate for Budget & Public Spending;
- Highlands and Islands Enterprise (HIE);
- Transport Scotland; and
- Scottish Road Works Commissioner

Public Consultation

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

- A scoping consultation² published in January 2017 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
- Specific policy proposals published in November 2017³, based on feedback and legal advice received following the first consultation.

² [Consultation on Heat and Energy Efficiency Strategies, and Regulation of District Heating](#), the Scottish Government, 24 January 2017.

³ [Scotland's Energy Efficiency Programme: Second Consultation on Local Heat and Energy Efficiency Strategies, and Regulation of District and Communal Heating](#), the Scottish Government, 14 November 2017.

16. In addition, as part of the Energy Efficient Scotland consultation of March 2019⁴, the Scottish Government sought views on how it could support the heat networks sector to grow.

17. A full, independent analysis of responses to each of these consultations has been undertaken^{5 6 7}.

Summary of Consultation Findings

18. The broad principles for regulation outlined in the consultations, and the objectives sought, have been generally supported.

19. 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.

20. Almost all respondents, who provided a definitive response, agreed that, as district heating becomes more widespread, it will need to become a licensed activity.

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

22. A small number of respondents commented on who should become the licensing authority, with some suggesting a new Energy Agency, while others said the Scottish Government or the Scottish Environmental Protection Agency (SEPA).

23. 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.

24. 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.

25. There was general support for establishing 'exclusive concessions', with Local Authorities and those within the industry particularly supportive of this proposal, as a

⁴ [Energy Efficient Scotland: Consultation](#), the Scottish Government, 26 March 2019.

⁵ [Consultation on Heat and Energy Efficiency Strategies, and Regulation of District Heating: Analysis of Responses](#), the Scottish Government, 14 November 2017.

⁶ [Energy Efficient Scotland: Analysis of Second Consultation on Local Heat and Energy Efficiency Strategies, and Regulation of District and Communal Heating](#), the Scottish Government, 22 November 2018.

⁷ [Energy Efficient Scotland: Consultation on Further Development of the Programme: Analysis of Responses to the Public Consultation Exercise](#), the Scottish Government, 16 December 2019.

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.

26. 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.

27. However, several Local Authorities disagreed with this, with resource implications, in terms of funds, time and expertise, were seen as a barrier.

28. 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.

29. 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.

30. Another theme in response to consultations was the consensus that heat network operators and developers should be given rights such as those which other utility companies possess, in order to undertake their construction and maintenance more easily and efficiently.

Business

31. During the development of provisions for the Heat Networks (Scotland) Bill, a number of businesses were consulted on proposals and have helped to shape the final Bill.

32. Businesses contributed by responding to two public consultations described in paragraph 15 and multiple stakeholder events that followed the launch of the consultations. Additionally, the Scottish Government undertook 6 site visits between Summer 2018 and Autumn 2019 to heat networks across Scotland to identify impacts which proposals may have on business. These visits were part of the Scottish Firms Impact Test and Island Communities Impact Assessment.

33. Furthermore, the Scottish Government worked closely with Scottish Renewables and Association for Decentralised Energy who represent the heat network sector throughout the process.

34. Lastly, the Scottish Government invited 6 organisations from the industry to be part of the Heat Networks Working Group. It also hosted a special extended meeting, where an additional 6 representatives from business were invited to comment on the proposals.

Options

Option 1 - Not legislating

Option 2 - Lighter-touch legislation (e.g. the introduction of a Heat Network Licensing system only)

Option 3 - Heat Networks (Scotland) Bill, as presented

Sectors and Groups Affected

35. The Scottish Government commissioned KPMG⁸ to undertake a range of specialist evidence gathering activities to supplement the existing evidence around the potential impacts of the Bill. The key impacts that have been identified can be categorised as follows:

- Consumers:
 - Consumer pricing and bills - the potential for changes in the levels of consumer bills.
 - Consumer disruption from installation - the potential for increased one off disruption for consumers stemming from an increase in the number of heat network developments.
 - Consumer service offering - the potential for changes in the services offered to consumers, for example changes in the availability of tariff types, services and technologies.
 - Consumer health and wellbeing - Potential for increases in health and wellbeing from policy targeted at reducing fuel poverty.
- Local Authority and Government:
 - Development costs of a heat networks regulator - The set up and administrative costs which would be required in order to develop any new heat networks regulator to deliver the new regulatory regime. Including:
 - Development and delivery of any licencing regime
 - Development and delivery of a heat network consenting process
 - Delivery of facilitator role
 - Development costs of a heat network consenting process – the set up and administrative costs which would be required in order to resource any team that would be issuing heat network consents.
- Business:
 - Development and operating costs - Potential for increase in development and operational costs for business stemming from specific technical requirements within the licence.

⁸ [Scottish Government Evidence Gathering Report: Evidence assessment for the implementation of heat networks regulation in Scotland](#), KPMG 13 December 2019

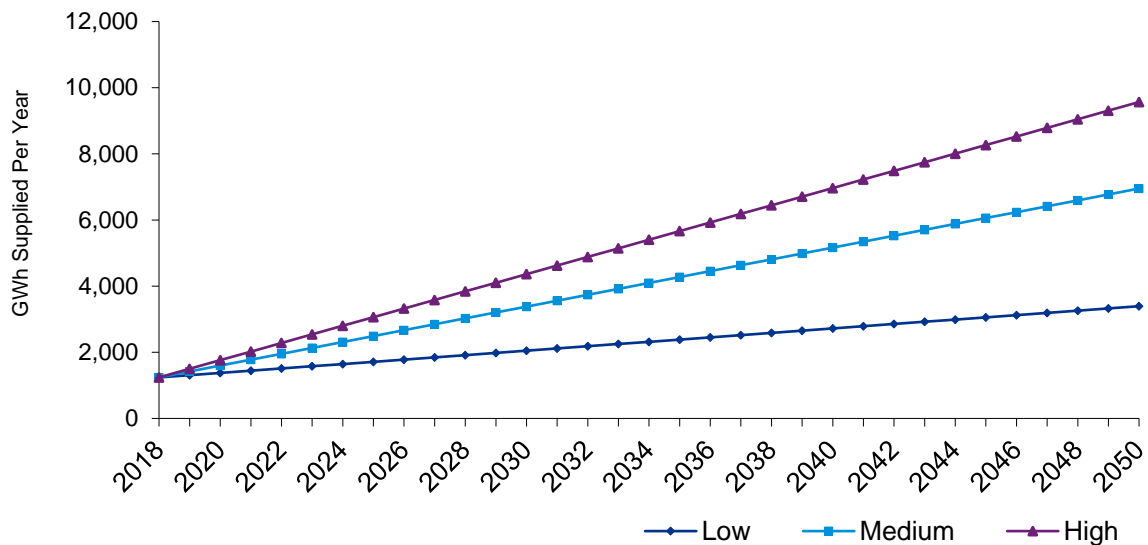
- Socio-economic assessments - costs of developing and submitting project specific socio-economic assessments alongside the application for consent of any new heat network developments.
 - Licensing process - Costs of application fees for licence within the new heat network licensing scheme, as well as preparation and submission time.
 - Unintended licence consequences - potential consequences stemming from the inclusion of a single licence regime covering the design through to operation for multi-site operators. With individual licences delivered at organisation level there could be potential for single problem specific sites to risk licence revocation.
 - Market dynamics - The potential for changes in the number and concentration / market power of participants within the market due to higher barriers to entry.
 - Deployment - Changes in the deployment and number of heat networks installed and operated, due to the overarching support provided to heat networks from the wider regulatory package.
 - Connections - The potential for the regulation to lead to changes in connections for waste heat providers, due to better facilitation and mediation from local authorities with developers and producers of waste heat.
 - Essential services companies - Potential impacts on other essential services companies such as retail energy suppliers, including decreases in provision of energy and subsequent revenues for energy suppliers from an increased deployment of households switching to heat networks.
- Wider Society:
 - Carbon savings - Reductions in carbon emissions from the incremental increase in deployment of heat networks.
 - Wider economic and job impacts - Wider economic impacts from policy stemming from increases in deployment of heat networks and potential impacts on the number of jobs.

Benefits

Option 1 - Not legislating

36. Heat network deployment is expected to increase even if there is no legislation. Figure 1 shows the three potential deployment scenarios identified by KPMG. They estimate that currently, in the absence of legislation, Scotland could meet the expected low scenario of around 3.4 TWh of heat supplied by heat networks in 2050. However, the Scottish Government is committed to encouraging greater deployment of heat networks in Scotland, in pursuit of our climate change ambitions.

Figure 1 - Heat Network Potential Deployment Scenarios



Source: KPMG

Option 2 - Lighter-touch legislation (i.e. the introduction of a Heat Network Licensing system only)

37. Overall, it is expected that this option would result in benefits arising to consumers, businesses and the wider society.

38. For consumers, evidence collated by KPMG suggests that heat networks could provide bill savings, potentially ranging up to 36%, with a medium potential saving of around 17% or 1.29 p/kWh in 2019. However, these savings will depend significantly on the scheme, household type and future changes in energy prices. For example, larger networks are able to generally create higher cost savings, due to their lower average cost of development and operation, driven by factors such as more consistent demand, storage potential, renewable usage and available business models.

39. KPMG also considered the potential for increases in bills. However, the introduction of legislation is not expected to lead to a material cost increase for businesses and therefore there is limited evidence that there would be an increase in prices for consumers from these proposals.

40. In order to understand the potential aggregate cost savings it is important to assess the potential impact on heat network deployment.

41. For businesses the lighter-touch regulation is expected to support the deployment of heat networks through standardisation and increasing consumer trust and engagement and consumers likelihood to connect. With the introduction of Option 2 it is expected that the medium scenario is achievable with 7.0 TWh met by heat

networks. This would represent an incremental increase of 3.6 TWh in heat supply compared to Option 1.

42. Given the additional deployment of heat scenarios it is estimated that by 2050 the aggregate consumer bill savings could be in the region of £46 million per year (in 2019 prices).

43. As well as impacting on consumer bills, the increase in deployment is expected to lead to cost reductions for business through “learning by doing”. A 2018 study by the Carbon Trust⁹ examined how through increased construction of physical assets and the expenditure of financial resources, learning can facilitate cost reductions for industry which might not otherwise been achieved. The report highlighted five key areas which could lead to cost reductions:

- **Financing:** Access to financial capital and processes related to the formulation of administrative, purchasing, planning and legal agreements.
- **Supply Chain:** Elements pertaining to the existence of a competitive supply chain of industry stakeholders and the multiplying effects of increased competition.
- **Infrastructure:** Built environment elements which facilitate the operation of heat networks.
- **Standardisation:** Benefits as heat networks begin to mature and systems, prices and designs become standardised.
- **Sites:** Better understanding and exploitation of the individual complexities of heat network sites.

44. By directly increasing the deployment of heat networks it is expected that there would be savings in CO₂ emissions, due to the potential for heat networks to provide heat at a lower carbon intensity than heat sources in a counterfactual scenario. Heat networks generally use a variety of heat sources with varying carbon intensities and therefore the emission savings are dependent on the fuel mix and the counterfactual heating source for individual schemes. KPMG’s review of evidence suggest carbon savings could be in the region of 0-23% for each heat network.

45. If it is assumed that the 3.6 TWh of heat that is being met by heat networks in 2050 due to Option 2 was currently being supplied by gas boilers, then the carbon emission savings of moving to a heat network could reach 0.1 Mt per year.

46. Stakeholders have also highlighted the potential improvement in local air quality stemming from an increase in deployment of heat networks and the avoided combustion of fossil fuels from the counterfactual heat source in populated areas. However, the

⁹ [Estimating the cost-reduction impact of the Heat Network Investment Programme](#), the Carbon Trust, January 2018.

evidence is insufficient as a number of studies have highlighted potential negative effects, such as studies into the effects of CHP in populated areas.

47. It is expected that the increase in deployment arising from Option 2 would lead to additional jobs, revenues and business opportunities for those companies and individuals involved in the operation of these technologies. These opportunities could arise from areas such as:

- Specialist consultants, designers, architects and developers;
- System controls, sensors and heat modelling;
- Equipment manufacturers;
- Installation, civil engineering and drilling engineers;
- Maintenance; and
- Supply chain.

48. However, a secondary impact of the increase in heat network deployment is a redistribution of revenues with essential services companies seeing a reduction in heat demand of 3.6 TWh by 2050, potentially leading to reductions in employment. Consequently it is unlikely there will be a significant net jobs impact at a Scotland level but the impact at a local level will depend on the location of the heat network companies.

Option 3 - Heat Networks (Scotland) Bill as presented

49. It is expected that Option 3 will result in similar benefits as identified under Option 2, including potential consumer bill savings, business savings through 'learning by doing' and carbon emission savings. However, deployment levels of heat networks are expected to be higher and therefore the aggregate benefits would be expected to be higher under Option 3.

50. Given the measures within the Heat Networks (Scotland) Bill it is expected the regulations will help to reduce demand risk while also reducing competition with other technologies. Consequently, it is expected that the high scenario in Figure 1 is achievable, with 9.6 TWh met by heat networks in 2050. This represents an incremental increase of 6.2 TWh in heat supply compared to Option 1.

51. Using this higher level of heat network deployment the potential aggregate consumer bill savings are estimated at £80 million per year by 2050 (in 2019 prices), while carbon emission savings could reach 0.3 Mt per year.

52. An additional benefit of Option 3 stems from the facilitation function for waste heat connections. Stakeholders have highlighted how there is potential to work towards bridging parties across contractual hurdles, particularly through mediation from an independent third party. Consequently, facilitation is expected to lead to greater connection of waste heat for heat networks.

Costs

Option 1 - Not legislating

53. This option presents no implementation costs.

Option 2 - Lighter-touch legislation (i.e. the introduction of a Heat Network Licensing system only)

54. The estimates for the financial implications of Option 2 are based on the assumptions within the Financial Memorandum, with total costs over the initial 10 year period provided in Table 1.

Table 1 - Total costs of Option 2 over 10 years in nominal prices

Scottish Administration	£1,046,179 - £7,103,372
Other bodies, individuals and businesses	£6,683,785 - £13,799,305

55. Alongside the financial implications of the Bill, stakeholders have suggested that there is a potential for non-monetary costs for consumers associated owing to the potential for increased disruption from capital projects needed for implementation of the networks. As with other utilities, development comes with granting land access rights which could cause issues such as traffic disruption, noise pollution, road and path closures and the disruption from having to allow heat network operators access to private property. An increase in heat network deployment from Option 2 could lead to an increase in such negative impacts, leading to costs to consumers and the local area.

Option 3 - Heat Networks (Scotland) Bill as presented

56. The financial implications of Option 3 are provided in detail within the Financial Memorandum, with a summary provided in the table below.

Table 2 - Total costs of Option 3 over 10 years in nominal prices

Scottish Administration	£5,467,713 - £20,400,142
Scottish Local Authorities	£15,872 - £47,617
Other bodies, individuals and businesses	£24,472,191 - £94,567,569

57. As with Option 2, there is the potential for non-monetary costs for consumers associated with the potential for increased disruption from capital projects. Given the

increase in heat network deployment is greater for Option 3 than Option 2 these non-monetary costs are expected to be higher under this Option.

Scottish Firms Impact Test

58. Most of the heat networks operating in Scotland can be classified as small to medium size enterprises. Typically, the networks would outsource many of their activities to contractors or arms-length organisations.

59. As part of the Scottish Firms Impact Test, the Scottish Government met with 7 businesses who are involved in heat networks market in Scotland:

- Angus Biofuels
- Fintry Development Trust
- Aberdeen Heat and Power
- Highland Bioheat
- Vital Energi (University of Strathclyde Project)
- Shetland Heat and Power
- Shetland Council Waste to Energy Plant

60. The main element of the proposals that was identified to impact existing organisations in the sector was introduction of Heat Networks Licensing. Since most of the organisations consulted as part of the Scottish Firms Impact Test were small or medium size they highlighted the challenges around the capacity to handle any regulatory burden. However, all of the stakeholders were able to also identify a range of benefits resulting from Heat Networks (Scotland) Bill proposals.

Benefits:

- Licensing can offer a commercial opportunity to increase credibility of heat networks by “conferring the reassurance to customers that the Scottish Government has faith in operations”.
- Licensing can also help companies in expanding their business, applying for funding and attracting new partners as they would be able to prove their ability through the licence which would significantly streamline any scrutiny process.

- Regulation of the sector would lead to standardisation in terms of technology and general practice which would benefit smaller businesses.
- Collection of data on the heat network market in Scotland through the licencing regime would give market participants a better idea of competition, potential partnership and expansion opportunities.
- Any Licensing Authority in charge of the market oversight would be able to increase the profile and credibility of the technology in Scotland.
- Requirement to be member of Heat Trust as part of the licencing regime would be welcomed by most of the businesses as it would increase consumer acceptance.

Challenges:

- Licensing and any other elements of regulation could add a disproportionately large burden of cost (compliance and administration). Those costs depending on the amount may need to be passed on to consumers which will increase the prices. The costs may even be preventative for some business to continue operations should they be too high.
- Licensing needs to be design to take account of differing business models of network operators and different circumstances such as islands or other off-grid areas. If the large amount of administration is required it may discourage growth of heat networks.
- Existing networks should not be asked to replace their apparatus to comply with new standards. Instead set of exemptions or alternative models to technical standards should be developed.
- Publication of selected number of data out of context may result in publically destroying the image of district heating in Scotland.
- Complexities with enforcing the consumer protection as in some circumstances the only client of the heat network is a housing association or local council which may result in unintended consequences if one size fits all system was to be adopted.
- Any sudden changes to funding may result in decline of growth in the sector as micro, small and medium size businesses often rely on additional support.

61. Feedback provided by stakeholders was taken into consideration when developing proposals for the Heat Networks (Scotland) Bill. In particular, the provisions regarding licensing have been developed to allow for flexibility in developing the

preferred licensing process. The Bill also provides powers for Scottish Ministers to make exemptions as well as set the fees at levels that it feels are appropriate. All of those provisions were developed to ensure proportionality in any forthcoming regulation.

62. The stakeholders did not provide any monetary estimates in relation to the impacts the regulations may have on their businesses.

Competition Assessment

63. Throughout the evidence gathering activities undertaken by KPMG they considered the potential impact on market dynamics. They received limited evidence or stakeholder engagement that highlighted the risks of changes in costs or barriers to entry limiting competition within the market or leading to market exit of potential developers and/or operators.

64. However, their assessment did not consider the introduction of permits. These permits will offer the market the opportunity to be the sole heat network within a Heat Network Zone and therefore will limit the competition within an area. However, permits will be subject to a robust initial competitive process and therefore the introduction of this legislation is not expected to lead to changes in the number of suppliers looking to develop or operate networks.

“Test Run” of Business Forms

65. The Heat Networks (Scotland) Bill will not introduce any statutory business forms.

Legal Aid Impact Test

66. The Scottish Government’s Legal Aid Team has confirmed that they do not anticipate the Bill having a significant impact on the legal aid fund.

Enforcement, Sanctions and Monitoring

67. The level of enforcement, sanctions and monitoring will depend on the option that will be pursued by the Scottish Government. Detail of proposed enforcement and compliance monitoring was set out in relation to each of the investigated options.

Option 1 – Not legislating

68. This option will not require any additional enforcement, sanctions and monitoring. The only enforcement that will be undertaken as part of Heat Metering and Billing Regulations, however this is currently undertaken by the UK Government.

Option 2 – Lighter touch legislation

69. Introduction of lighter touch legislation would involve enforcement of licensing system. This would be a responsibility of a designated Licensing Authority who would have powers over approving applications for the licences, monitoring the heat network sector by gathering the data from licence holders and ability of revoke licences as an ultimate enforcement action.

70. To ensure that the licensing system is flexible and takes account of different business model, the processes associated with enforcement and monitoring will be developed by subsequent regulations. The Scottish Government will work closely with industry stakeholders during their development.

Option 3 – Heat Networks (Scotland) Bill

71. To enforce the elements of a new regulatory regime, the Heat Networks (Scotland) Bill creates a range of offences that will have different penalties attached to them. Some of the offences created by the Bill include:

- Supplying heating, cooling or hot water to a building in an area by means of heat network **without** a heat networks licence.
- Offence of failing to comply with enforcement notice in relation to operation without the heat network consent or non-compliance with its conditions.
- Operating a heat network in a relevant heat network zone without a heat network zone permit.
- Intentionally obstructing another authorised person in exercise of their power to enter upon and survey the land.

72. Penalties will in most of the instances include fines, however in many circumstances the Bill also provides for an option to appeal the decision of any authority.

73. The main oversight body that will be monitoring the heat networks market will be the Licensing Authority. It will collect the information from any licence holders who are operating heat networks in Scotland. Additionally, Scottish Ministers will also hold information on any heat network that has received a Heat Network Consent or Permit.

74. Furthermore, Local Authorities will also be required to undertake the consideration of heat network zoning every five years, with first exercise commencing in year one after the Bill receives Royal Assent.

75. Majority of the processes behind enforcement, sanctions and monitoring connected with the Heat Networks (Scotland) Bill will be introduced by the subsequent regulations and their impacts assessed separately.

Implementation and Delivery Plan

76. The evolving nature of the technology and heat networks market in Scotland requires a regulatory system which will be able to adapt to the development of new ownership structures, new technological solutions as well as different sources of finance. To enable that flexibility, the Heat Networks (Scotland) Bill introduces elements of regulation that can evolve and be adapted with time by delegating powers over development of processes and guidance to the Scottish Ministers.

77. The development of regulatory system is expected to take approximately 2 years following the Heat Networks (Scotland) Bill receiving Royal Assent.

78. A total of 51 provisions create powers that enable Scottish Ministers to make further regulations which are likely to require further consultation with stakeholders. In order to develop a range of statutory instruments, directions and guidance introduced by the Bill, the Scottish Government will engage a number of technical specialists and stakeholders to ensure that the regulation is suited to the needs of consumers and the sector.

79. The Heat Networks Regulation Working Group established in May 2019 will continue to support the Scottish Government as it develops subsequent regulation. It is also expected that approximately 4 public consultations will be required during the transition period.

80. A dedicated team within the Scottish Government will develop a series of Scottish statutory instruments, orders and guidance needed to implement heat network licensing, consents, heat network zoning, permits and additional rights and powers for licence holders. It is envisaged that the team will be operational for two years and will be working closely with any designated licensing authority to design an adequate licensing system. Any regulatory elements will be developed by the same team in consultation with wider Scottish Government directorates and relevant Scottish stakeholders as described above.

81. Following the 2 year transition period, each of regulatory elements will fall within the responsibility of the authority identified in the Bill:

- Heat Network Licensing – Licensing Authority (Scottish Ministers or other designated body)
- Heat Network Consents – Enforcement Authority (Scottish Ministers or other designated body)
- Heat Network Zones – Local Authorities and Scottish Ministers

- Heat Network Permits – Permit Authority (Scottish Ministers or other designated body)

82. The Financial Memorandum outlines costs associated with the implementation of Heat Networks (Scotland) Bill provisions over first 2 years as well as costs associated with implementation of the regulatory elements across 10 years following the Bill receiving Royal Assent.

Implementation Period

83. The Bill will be implemented over 2 years following the granting of Royal Assent. Due to their dependency on designation of Heat Network Zones which are expected to occur in year 3, the Heat Network Permits are expected to start being awarded from year 4.

Post-Implementation Review

84. Scottish Ministers or designated bodies acting as Licensing Authority, Enforcement Authority and Permit Authority will be responsible for monitoring of implementation of proposals and state of the market to determine whether the overall purpose was achieved.

85. As part of the delivery plan a formal post-implementation review will take place within 10 years of this Bill coming into force. Each individual subsequent regulation will have its individual 10 year review.

Summary and Recommendation

86. In summary, the introduction of the regulation to the heat networks sector will increase consumer awareness and encourage greater deployment of heat networks in Scotland, helping to reduce emissions from heating homes and non-domestic buildings as well as having the potential to reduce consumer bills.

87. The Bill will also contribute to the Scottish Government's target that 50% of all energy consumption come from renewables by 2030.

88. Considering the information collated through this assessment the recommended policy option is to introduce primary legislation as set out under Option 3.

Declaration and Publication

89. I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

A handwritten signature in blue ink, appearing to read 'Paul Wheelhouse', written in a cursive style.

Paul Wheelhouse, Minister for Energy, Connectivity and Islands

Date: 21 February 2020

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