



# Heat Networks (Scotland) Act 2021

## 2021 asp 9

### PART 7

#### KEY HEAT NETWORK ASSETS

#### 84 Identifying key heat network assets

- (1) This section applies to—
  - (a) a heat network consent application relating to—
    - (i) the construction and operation of a heat network, or
    - (ii) the operation of a heat network,
  - (b) a heat network consent modification application in respect of a heat network consent relating to—
    - (i) the construction and operation of a heat network, or
    - (ii) the operation of a heat network.
- (2) The heat network consent application or (as the case may be) the heat network consent modification application must include—
  - (a) required information about each key asset of the heat network to which the application relates, and
  - (b) required information about each person with an interest in such an asset.
- (3) In subsection (2), “required” means required by a determination under section 33(1).
- (4) In this Part, “key asset”, in relation to a heat network, means property of a type mentioned in subsection (5) which—
  - (a) forms part of the heat network, and
  - (b) is necessary to the operation of the heat network.
- (5) The types of property are—
  - (a) land,
  - (b) buildings,
  - (c) apparatus,
  - (d) such other type of property as may be specified by the Scottish Ministers by regulations.

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*Status: This version of this part contains provisions that are prospective.*  
**Changes to legislation:** There are currently no known outstanding effects for the Heat Networks (Scotland) Act 2021, PART 7. (See end of Document for details)

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- (6) For the purposes of subsection (4)(b), it is for the Scottish Ministers to determine any question which arises as to whether property forming part of a heat network is necessary to the operation of the heat network.
- (7) Regulations under subsection (5)(d) may make different provision for different areas.

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**Commencement Information**

**I1** S. 84 in force at 16.1.2023 for specified purposes by [S.S.I. 2022/376, reg. 2, sch.](#)

**85 Preparing schedule of key heat network assets**

- (1) Following receipt of a heat network consent application of the type mentioned in section 84(1)(a) in relation to a heat network, the Scottish Ministers must prepare a schedule that includes details of each key asset of the heat network.
- (2) Subsection (3) applies where—
- (a) property relating to a heat network appears to the Scottish Ministers to be a key asset of the heat network, and
  - (b) the Scottish Ministers propose to include details of the property in the schedule of key network assets for the heat network.
- (3) Before including details of the property in the schedule of key network assets, the Scottish Ministers must give notice of the proposal to—
- (a) each person with an interest in the property, and
  - (b) such other persons as the Scottish Ministers consider appropriate.
- (4) The notice must—
- (a) give reasons why the property appears to the Scottish Ministers to be a key asset of the heat network,
  - (b) explain the consequence of the property becoming a listed asset, and
  - (c) specify the period (which is to be not less than 28 days from the date on which the notice is given) within which the recipient of the notice may make representations about the proposal.
- (5) Where the Scottish Ministers include details of a key asset of a heat network in the schedule of key network assets for the heat network, the Scottish Ministers must give notice of that fact to each person with an interest in the key asset.
- (6) The Scottish Ministers must give notice under subsection (3) or (5) in such form and manner as they may specify by regulations.

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**Commencement Information**

**I2** S. 85 in force at 16.1.2023 for specified purposes by [S.S.I. 2022/376, reg. 2, sch.](#)

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PROSPECTIVE

## **86 Notifying Scottish Ministers of changes in key network assets**

- (1) The operator of a heat network must notify the Scottish Ministers if—
  - (a) property that is not a listed asset of the heat network becomes a key asset of the heat network, or
  - (b) property that is a listed asset of the heat network has ceased to be a key asset of the heat network.
- (2) Notification under subsection (1) must include such information about—
  - (a) property relating to the heat network to which the notification relates, and
  - (b) each person with an interest in such property,as the Scottish Ministers may determine.
- (3) The Scottish Ministers must arrange for any determination under subsection (2) to be published in such manner as they consider appropriate.

## **87 Modifying schedule of key heat network assets**

- (1) If the Scottish Ministers consider that property that is a listed asset of a heat network has ceased to be a key asset of the heat network, the Scottish Ministers must remove the details of the listed asset from the schedule of key heat network assets for the heat network.
- (2) If the Scottish Ministers consider that property that is not a listed asset of a heat network has become a key asset of the heat network, the Scottish Ministers must include details of the property in the schedule of key heat network assets for the heat network.
- (3) Before including details of property in the schedule of heat network assets pursuant to subsection (2), the Scottish Ministers must give notice of the proposal to—
  - (a) each person with an interest in the property, and
  - (b) such other persons as the Scottish Ministers consider appropriate.
- (4) The notice must—
  - (a) give reasons why the property appears to the Scottish Ministers to be a key asset of the heat network,
  - (b) explain the consequence of the property becoming a listed asset, and
  - (c) specify the period (which is to be not less than 28 days from the date on which the notice is given) within which the recipient of the notice may make representations about the proposal.
- (5) Where the Scottish Ministers include details of a key asset of a heat network in the schedule of key network assets for the heat network pursuant to subsection (2), the Scottish Ministers must give notice of that fact to each person with an interest in the key asset.
- (6) The Scottish Ministers must give notice under subsection (3) or (5) in such form and manner as they may specify by regulations.

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- (7) It does not matter for the purposes of subsection (1) or (2) whether the Scottish Ministers form the view mentioned in either of those subsections—
- (a) following receipt of a heat network consent modification application of the type mentioned in section 84(1)(b),
  - (b) following notification under section 86(1), or
  - (c) on their own initiative.

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**Commencement Information**

**I3** S. 87 in force at 16.1.2023 for specified purposes by [S.S.I. 2022/376, reg. 2, sch.](#)

**88 Preparation and maintenance of schedule of key network assets: further provision**

The Scottish Ministers may by regulations make further provision about the procedure to be followed in connection with the preparation and maintenance of schedules of key heat network assets.

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**Commencement Information**

**I4** S. 88 in force at 16.1.2023 by [S.S.I. 2022/376, reg. 2, sch.](#)

**89 Transfer schemes**

- (1) Where an operator (the “former operator”) ceases (or is to cease) operating a heat network, the Scottish Ministers may make a transfer scheme.
- (2) A “transfer scheme” is a scheme making provision for—
  - (a) the transfer to one or more relevant persons of the former operator's rights relating to the use of listed assets of the heat network,
  - (b) the conferral on one or more relevant persons of other rights relating to the use of listed assets of the heat network.
- (3) A transfer scheme may make incidental, supplementary, consequential or transitional provision in connection with the transfer or conferral of rights by the transfer scheme as the Scottish Ministers consider appropriate.
- (4) The Scottish Ministers may by regulations make further provision about transfer schemes.
- (5) Regulations under subsection (4) may in particular make provision about—
  - (a) the rights that may be transferred or conferred by a transfer scheme,
  - (b) the procedure applying in connection with the making of a transfer scheme,
  - (c) the effect of transfers or conferrals of rights by a transfer scheme,
  - (d) requirements that may be imposed on the former operator or a transferee in connection with the transfer or conferral of rights by a transfer scheme, including obligations to enter into such agreements with another person, or to execute such documents in favour of another person, as may be specified or described in a transfer scheme,

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- (e) the circumstances in which a right transferred or conferred by a transfer scheme is or may be extinguished,
  - (f) the modification of a transfer scheme.
- (6) In this section—
- “relevant person” means—
- (a) the Scottish Ministers,
  - (b) the appropriate local authority,
  - (c) a person (other than the former operator) to whom a heat network consent relating to the operation of the heat network is granted,
- “transferee” means a relevant person to whom rights are transferred, or on whom rights are conferred, by a transfer scheme.
- (7) In subsection (6), in the definition of “relevant person”, the “appropriate local authority” means—
- (a) the local authority for the area in which the listed assets are situated, or
  - (b) where the listed assets are situated in the area of more than one local authority—
    - (i) the authority in whose area the greater or greatest part of the listed assets is situated, or
    - (ii) if neither or none of those authorities falls within sub-paragraph (i), such of those authorities as is selected by the Scottish Ministers for the purposes of being a transferee.

**Commencement Information**

**I5** [S. 89](#) in force at 16.1.2023 for specified purposes by [S.S.I. 2022/376](#), [reg. 2](#), [sch.](#)

**90 Compensation in connection with transfer schemes**

- (1) The Scottish Ministers may by regulations make provision for or about the payment of compensation in connection with a transfer scheme under section 89(1).
- (2) Regulations under subsection (1) may in particular make provision about—
- (a) the circumstances in which compensation is payable,
  - (b) the persons to whom compensation is payable,
  - (c) the persons liable to pay compensation,
  - (d) what compensation is payable in respect of,
  - (e) how the amount of compensation is to be calculated,
  - (f) how a claim for compensation must be made in order to be valid (including the form and content of a claim, and the period within which it must be made),
  - (g) the resolution of disputes relating to compensation.

**Commencement Information**

**I6** [S. 90](#) in force at 16.1.2023 by [S.S.I. 2022/376](#), [reg. 2](#), [sch.](#)

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PROSPECTIVE

## 91 Interpretation of Part 7

In this Part—

“listed asset”, in relation to a heat network, means property the details of which are included in the schedule of key heat network assets for the heat network,

“operator”, in relation to a heat network, means a person holding a heat network consent in relation to the operation of the heat network,

“schedule of key heat network assets”, in relation to a heat network, means a schedule prepared under section 85(1) for the heat network.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Heat Networks (Scotland) Act 2021, PART 7.