EXPLANATORY MEMORANDUM TO

THE HEAT NETWORK (METERING AND BILLING) (AMENDMENT) REGULATIONS 2015

2015 No. 855

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change ("DECC") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends The Heat Network (Metering and Billing) Regulations 2014 SI 2014/3120 ("the 2014 Regulations"). This instrument corrects errors identified by the Joint Committee on Statutory Instruments in their 19th Report of Session 2014-15 dated 21st January 2015. It also changes the date by which a heat supplier must submit a notification under regulation 3(1) of the 2014 Regulations from 30th April 1015 to 30th December 2015.

2.2 The changes introduced by these regulations are:

- In regulation 3(2) of the 2014 Regulations, the date by which a heat supplier must comply with the duty in regulation 3(1) to submit a notification is changed from 30th April 2015 to 31st December 2015.

- The phrases "to which these regulations apply" and "to which this regulation applies", which appear in regulations 5, 6(6), 6(7), 8 and 9(1) of the 2014 Regulations are amended. The amendments clarify that the relevant regulations apply in cases where the regulations impose a duty on a heat supplier to ensure that a meter or heat cost allocator is installed.

- Regulations 4(9) and 6(7) of the 2014 Regulations are omitted as they are superfluous in view of the amendment to regulation 5.

- Regulation 7(2) of the 2014 Regulations is amended to clarify that the duty is to ensure that sufficient meters are installed rather than necessarily to install sufficient meters. Pre-existing meters may satisfy the requirements of the Regulations.

- Regulation 7(4)(d) of the 2014 Regulations is amended to specify that reinstatement costs are to be calculated at the time immediately before the renovation of a building is commenced.

- Regulation 13(1) of the 2014 Regulations is amended to set out the penalties which apply in the context of offences triable only summarily.

- Regulation 14(1) of the 2014 Regulations is amended so that the restriction on the time within which criminal proceedings may be commenced is confined to offences triable only summarily.

- To clarify that the Directive referred to in regulation 15(2) of the 2014 Regulations is a reference to specified Articles of Directive 2012/27/EU of the European Parliament and the Council on energy efficiency[1].

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 A hard copy of the document referred to in paragraph 10 of Schedule 1 to the 2014 Regulations, "Assessing the cost effectiveness of individual metering: Energy Demand Benchmarks" may be obtained by writing to the Department of Energy and Climate Change, 3 Whitehall Place, London SW1A 2AW or e-mailing: heatstrategy@decc.gsi.gov.uk.

3.2 These regulations comply with the 21 day rule. However, they will come into force after Parliament has been dissolved. The only amendment to policy is to change the date by which heat suppliers must submit a notification about their heat network. This change is being made in response to concerns made by stakeholders since the date on which the regulations came into force. The amendment eases the burden on heat suppliers but does not alter the obligations required by the Directive. This change needs to be in force before 30 April which is the current deadline and after which failure to notify would be an offence for existing heat networks and communal heating.

4. Legislative Context

4.1 The Heat Network (Metering and Billing) Regulations 2014 transposed the requirements of Articles 9(1) and (3), 10, 11 and 13 of the Energy Efficiency Directive ("the Directive") as they apply to the metering and billing of heating and cooling.

4.2 It is a requirement of European law that the provisions of a Directive be given effect in the national legal system of Member States.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales, Scotland and Northern Ireland.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

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[1] Directive 2012/27/EU. OJ No L 315, 14.11.2012, p1.

7. Policy background

7.1 The Heat Network (Metering and Billing) Regulations 2014 were introduced to transpose the requirements of Articles 9(1) and (3), 10,11 and 13 of the Energy Efficiency Directive ("the Directive") as they apply to the metering and billing of heating and cooling. There are already long-standing regulations covering the metering and billing of electricity and gas usage. There are no existing similar regulations for those who buy heating or cooling from a network.

7.2 This instrument does not represent a change of policy to that set out in The Heat Network (Metering and Billing) Regulations 2014. However, the deadline for notifications is being amended from 30 April 2015 to 31 December 2015 (or the date of commencing operation if later). This change is being made following evidence from those in the supply chain about a lack of capacity to complete the notifications, particularly amongst smaller operators, by the end of April. Recent information provided by a range of stakeholders is that the information required for notifications may not be readily available. We have concluded that it may be unnecessarily onerous for some operators to leave this date unchanged and that we should extend it to the end of 2015. This will allow heat suppliers more time to submit their notifications.. It will also allow data gathering to be scheduled or commissioned as part of other work being undertaken by the heat supplier which will reduce the administrative burden.

8. Consultation outcome

8.1 From 10 January and 21 February 2014, the Government ran a public consultation on the Directive's requirements and the Government's implementation options. However, we have not formally consulted on these current amendments. These are not considered to be material changes to the implementation of the Directive.

9. Guidance

9.1 The National Measurement Office will update the webpage https://www.gov.uk/heat-networks to note that the instrument has been amended.

10. Impact

10.1 An impact assessment is not needed for the changes identified in paragraph 2.2 as these do not represent a change of policy other than in respect of the change mentioned in paragraph 7.2 which will reduce the impact on the regulated sector.

10.2 An impact assessment and an equality impact assessment were previously prepared for 'The Heat Network (Metering and Billing) Regulations 2014' https://www.gov.uk/government/consultations/implementing-the-energy-efficiency-directive-metering-and-billing-of-heating-and-cooling

11. Regulating small business

11.1 The instrument applies to all individuals and organisations that supply district heating, district cooling and communal heating and hot water systems to final consumers.

12. Monitoring & review

12.1 The Secretary of State is also required from time to time to carry out a review of the operation and effect of 'The Heat Network (Metering and Billing) Regulations 2014' and publish an assessment. The first report must be published within five years of these Regulations coming into force.

13. Contact

13.1 Graham Allardice at the Department of Energy and Climate Change (tel: 0300 068 5400 or email: heat.strategy@decc.gsi.gov.uk) can answer queries regarding the instrument.