



**MINISTRY OF FOREIGN AFFAIRS  
OF DENMARK**

# First Scottish district heating law passed - what will it mean for the sector?

**DBDH members meeting, Vejle**

10<sup>th</sup> June 2021

# Who are we?

## Energy Governance Partnership

- Government to government-program funded by the Danish Government
- Provide inspiration and support for heat decarbonisation policy in UK and Scotland.
  - *Examples of activities: Support policy teams, deliver written evidence, study tours, host webinars, host industry events etc.*
- Part of the Danish Governments Global Climate strategy – currently based in 16(/18) countries (>76% of global emissions)
- Coordinated and supported by experts and resources in the Danish Energy Agency

## Jacob Byskov Kristensen, Energy Policy Advisor

- Danish Embassy in London
- Leading on district heating
- Former Danish Energy Agency, district heating office



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*The Trade Council*



Danish Energy  
Agency



# Agenda

- UK Context
  - Devolved/reserved administration
  - Regulatory overview
- The Heat Network (Scotland) Act
- Where does this leave the sector?

# Disclaimer

- This is the author's own interpretation and understanding
  - *Some slides have been provided by the Scottish Government, but their use are fully based on the authors interpretation and responsibility*
- All sources are publically available

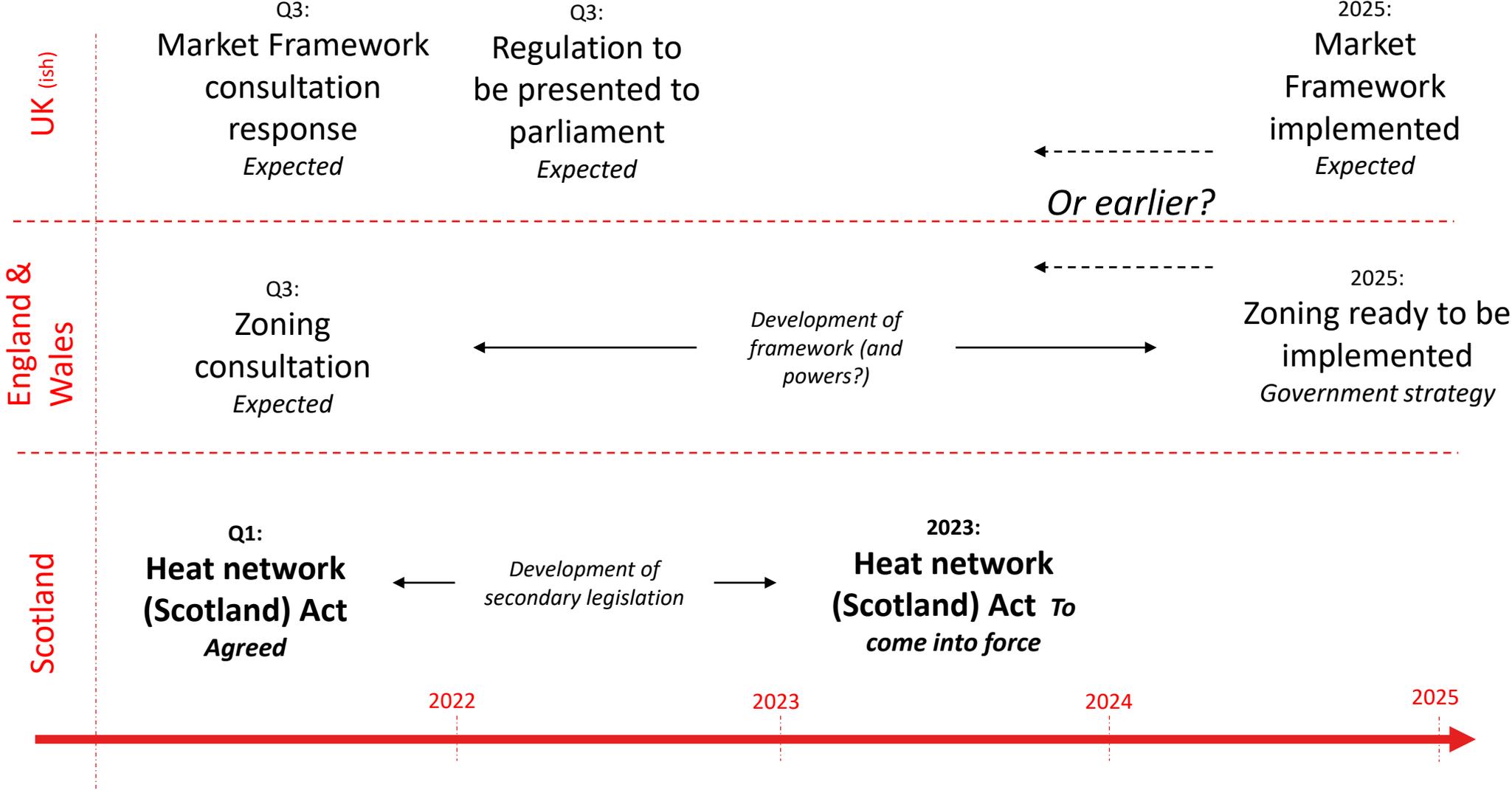
# Basics

- **Heat networks (HN):** Incl. district and communal heating (“blokvarme”)
- **Status:** No regulation in place atm, and a relatively small market share (2%) - but that is about to change.
- **Scot.Gov can’t legislate on their own:** HN is a devolved matter – but gas, consumer protection/rights & taxation (somewhat) isn’t
- **Taking a different route:** Found great inspiration in “the Danish case”, but “hvile-i-sig-selv” is probably a step too far (atm)

# UK heat network policy: a Patchwork

	Consumer protection	Planning/zoning	Driving investments	
England	Market Framework	HNPU: Planning support	Zoning	
Wales				HNIP / GHNF: ≈£600mil CAPEX funding
Scotland		Heat Network (Scotland) Act		...
Northern Ireland		LHEES		?
			Future of gas & CO2-cost	

# HEAT NETWORK POLICY Timeline



# Why is the Scottish Act so interesting?

- **First of its kind** in the UK
- **Comprehensive:** Introduces much of the legislation that has been requested by both the sector and the competitive authority for many years
- **Not a simple achievement:** Navigating and influencing both devolved and reserved policy fields
- **Great political support:** The policy process showed great political support for heat networks
- **Very ambitious aims:** 20 fold\* increase in heat networks in 9 years!

*\* To supply 6 TWh of output by 2030 (approx. 650,000 domestic connections)*

## Regulation

Part 1 – Licensing

Part 2 – Consents

Part 7 – Key heat network assets

Part 9 - Miscellaneous and general

## Supporting Investment

Part 3 – Heat Network Zones

Part 4 – Heat Network Zone Permits

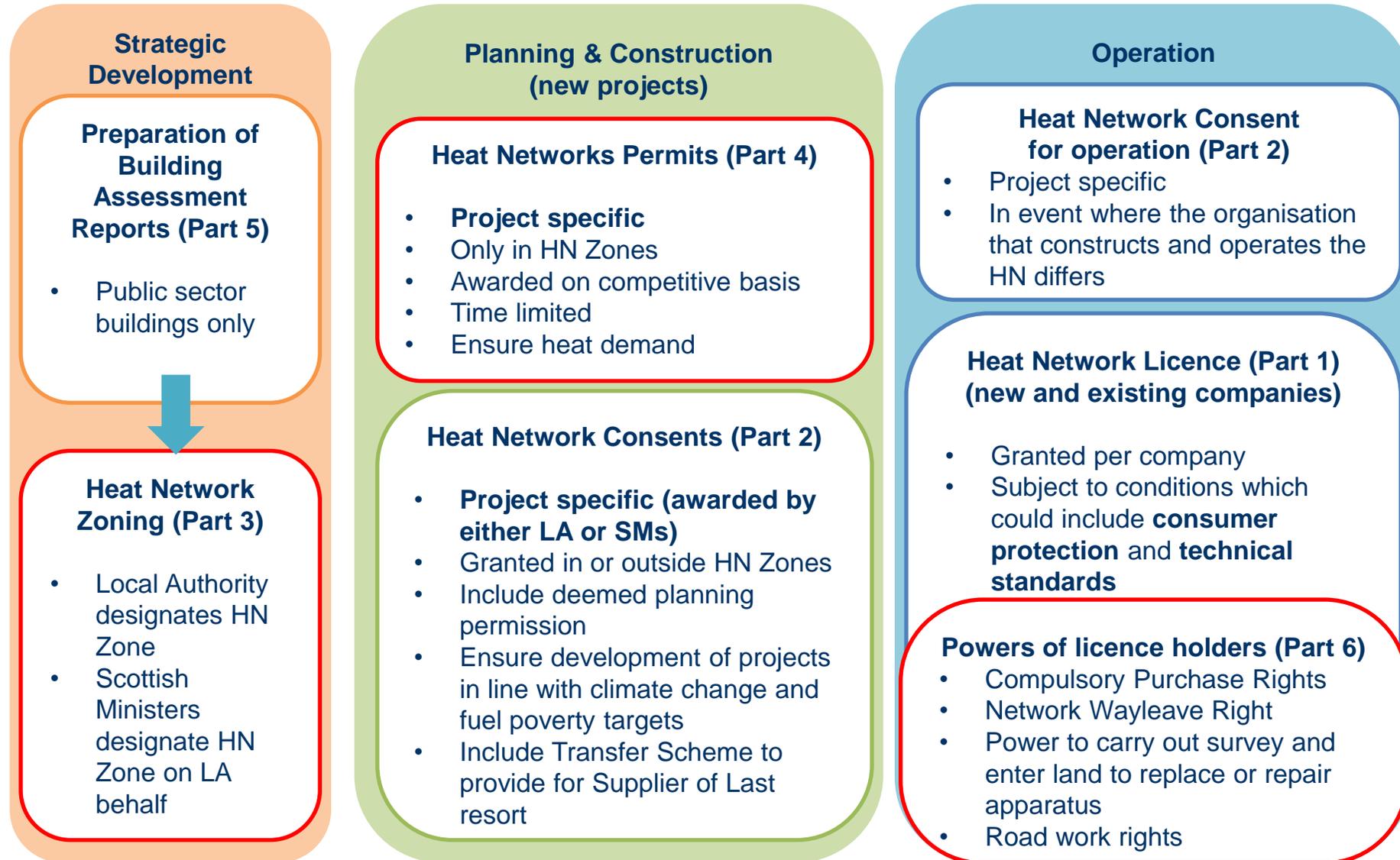
Part 5 – Building Assessment Reports

Part 6 – Powers of Licence holders

Part 8 - Heat networks targets and delivery plans

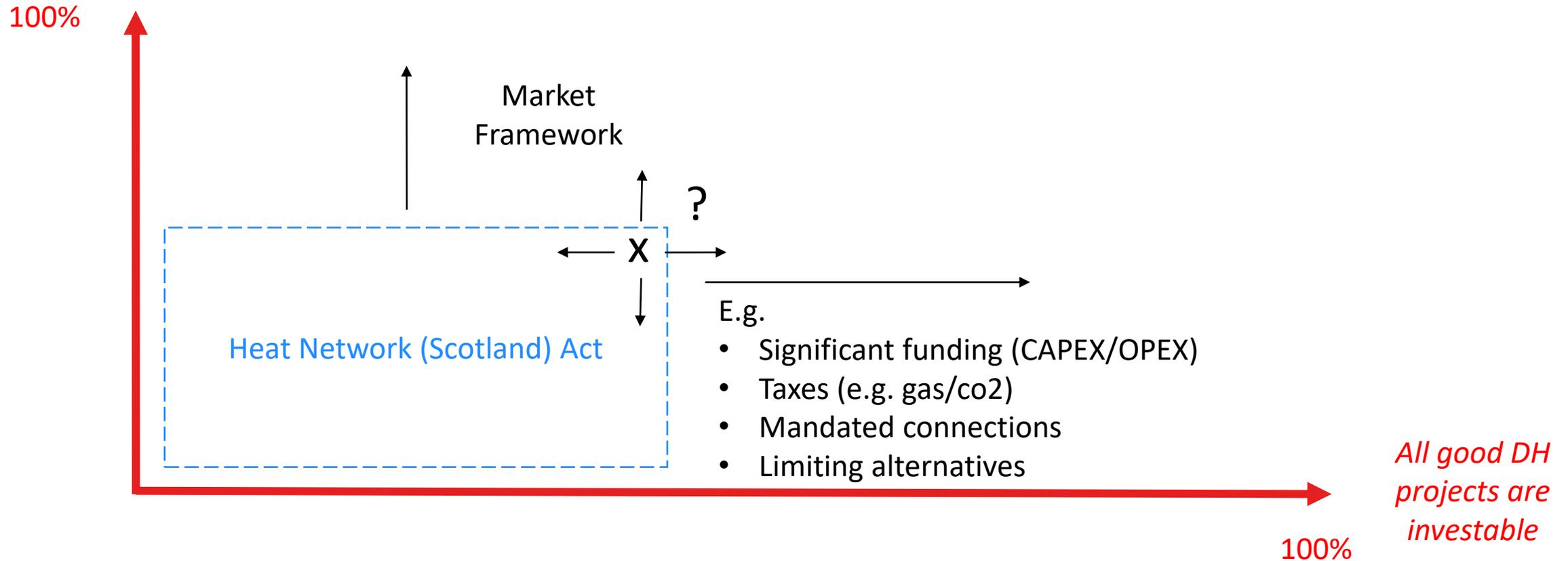


# Heat Networks (Scotland) Act



# where does this leave the scottish sector?

*Consumers are ensured quality and protected from monopoly power*



## Why I'm an optimist (for DH in Scotland)

- The Scots want to be in front and are ready to push for it
- The Act will make it (a lot) easier to navigate, plan and develop DH
- Scot. Gov. is tasked with making a plan to meet the new targets
- The climate agenda is centre of attention across UK – and heat is possibly their biggest head-ache
- UK government have to act as well

## Why one could be a pessimist

- Planning and consumer protection is important – but economics need to stack up!
- The many unknowns still makes it a difficult to predict and really engage in the market
- Many interest at play
- UK policy is influential and less certain

# What's the key take-aways for businesses?

## **We know**

- A lot will have to happen in a very short time – stay tuned!
- Planning and development of DH will become (a lot) easier
- Local and national authorities will become better resourced
- The rest of UK is looking to Scotland
- The Scots are still looking for inspiration and input

## **We don't know**

- How they're going to ensure that the economics stack up?

**...the end**

**Thanks for your  
attention**

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## Part 1 - Heat Network Licence

- Introduction of the definition of a “heat network”;
- Requirement for a heat network licence, alongside with powers to make relevant exemptions via regulations;
- Introduction of the “licensing authority” with power to designate it to third party;
- Issuing guidance to the licensing authority that need to specify e.g. how existing heat networks will be treated under the regime;
- Outline of processes in relation to heat network licence applications that may need to include the following:
  - the applicant’s knowledge, expertise and experience,
  - the applicant’s ability to operate a heat network in a manner that—
    - minimises greenhouse gas emissions (within the meaning of the Climate Change (Scotland) Act 2009) from the heat network,
    - takes account of the just transition principles (within the meaning of section 35C of that Act), and
    - contributes to meeting the fuel poverty targets.



- Ability to attach conditions (standard or special) to the heat network licence, in particular in relation to:
  - the interests of users of thermal energy supplied by means of a heat network,
  - the desirability of furthering or promoting the reduction of greenhouse gas emissions (within the meaning of the Climate Change (Scotland) Act 2009) from the operation of heat networks,
  - the desirability of furthering or promoting the use by heat networks of—
    - thermal energy generated from renewable sources,
    - waste heat or cold.
- General provisions in relation to:
  - Duration, modification and revocation (and any appeals from revocation) of the heat networks licence;
  - Register of heat network licenses;
  - Regulation making power to determine any procedures under Part 1.



- Introduction of “consent authority” that as a default is to be the Scottish Ministers, however it can be designated to local authorities for their area upon the request via regulation;
- Requirement for heat network consent relating to the construction or operation of the heat network;
- Regulatory making power in relation the decision making under the Part 2, with specified matters that need to be considered in those regulations such as:
  - Impact of the project on the environment generally and, in particular, in contributing to the reduction of greenhouse gas emissions (within the meaning of the Climate Change (Scotland) Act 2009),
  - in contributing to meeting the fuel poverty targets.
- Requirement to consult on the regulations with the Scottish Fuel Poverty Advisory Panel and local authorities.



- General provisions relating to:
  - Heat network consent conditions or limitations;
  - Exemptions from the requirement for heat network consent;
  - Transfer, modification and revocation of heat network consent;
  - Applications to local authorities: Ministerial powers of call-in, direction and appeal;
  - Compensation;
  - Miscellaneous;
- Requirement to prepare Community Engagement Report as part of the application in accordance to the Guidance specified by the SG.
- Enforcement of requirement for heat network consent;
- Heat network consent and planning permission:
  - Deemed planning permission on Scottish Ministers granting or modifying heat network consent;
  - Combining applications to local authorities for heat network consent and planning permission.



- Duty on local authorities to review to consider whether one or more areas in its area are particularly suitable for construction and operation of a heat network;
  - If review finds particularly suitable areas, the local authority must proceed to designation stage or request Scottish Ministers to undertake it on its behalf;
- Power to designate area as a heat network zone at any time;
- Matters to be considered while undertaking review and designation:
  - the potential for use by a heat network of thermal energy generated from renewable sources, and waste heat or cold,
  - the nature and extent of existing infrastructure in the area that could assist in the development of a heat network in the area,
  - the potential for a heat network in the area to contribute to meeting the fuel poverty targets,
  - the potential for a heat network in the area to contribute to meeting the heat network deployment targets;
  - building assessment report



- Introduction of “permit authority” that may issue heat network permits in heat network zones, prohibiting operation or construction of heat network to those without it;
- Heat network zone permits are time limited and need to be awarded on competitive basis;
- Act provides regulatory making power in relation to the process for awarding the heat network zone permits;
- Act provides for revocation, appeals against revocation and compensation in relation to the revocation of heat network zone permit;
- Act also provides for the enforcement of the heat network zone permit and specifies liabilities under the offence;
- Heat network zone permits process is likely to follow similar approach as this commonly taken in concession arrangements.



- Places a requirement on persons either owning or with interest in non-domestic building to prepare a Building Assessment Report.
- The assessment must set out:
  - the potential for the non-domestic building to be supplied with thermal energy by means of a heat network,
  - the period for which any system providing thermal energy to the non-domestic building is expected to continue to operate effectively and efficiently.
- Building Assessment Reports are to be prepared in accordance with Guidance set by the Scottish Ministers;
- Such report is to be submitted to the local authority and Scottish Ministers;
- Initially this requirement extends to public sector only, with the potential to be extended further.



## Part 6 - Powers of licence holders

- Compulsory acquisition of land by licence holder;
- Wayleave rights:
  - Acquisition of necessary wayleave
  - Assignation and variation of network wayleave rights
  - Discharge of network wayleave right
  - Registration of network wayleave rights
  - Requirement to remove apparatus when notified
  - Compensation in connection with network wayleave rights
- Other powers over land:
  - Power to carry out survey
  - Power to enter land to replace or repair apparatus
  - Restrictions on powers of licence holders
  - Compensation for damage or disturbance
- Road works:
  - Power to carry out road works



- Certain licence holders will be granted a power to carry out road works;
- Meaning of road works is consistent with that under Part 4 of the New Roads and Street Works Act 1991 meaning that a licence holder with these powers will be a statutory undertaker;
- Power includes works that involve opening or breaking up a road, opening or breaking up a sewer, drain or a tunnel under a road, tunnelling or boring under a road, and removing or using all earth and materials in or under a road such for the purposes of:
  - installing heat network apparatus in a road;
  - inspecting, maintaining, adjusting, repairing, altering or renewing heat network apparatus installed in a road;
  - changing the position of heat network apparatus in a road;
  - removing heat network apparatus from a road; or
  - other works which may require such works.



- Requirement to identify key heat network assets as part of the heat network consent application;
- Requirement to prepare a schedule of key heat network assets by the SMs following HN Consent application;
- Types of property to be listed on the schedule are: land, buildings, apparatus and other items specified by SMs;
- Notice will be required to add or remove any items from the schedule;
- Regulatory making power to specify the detailed procedure in relation to notifying the SMs on changes in key network assets, modification to the schedule as well as preparation and maintenance of the schedule.



## Part 7 - Transfer Scheme

- Where an operator (the “former operator”) ceases (or is to cease) operating a heat network, the Scottish Ministers may make a transfer scheme with regulatory making powers to make further provision in relation to transfer schemes, in particular:
  - the rights that may be transferred or conferred by a transfer scheme,
  - the procedure applying in connection with the making of a transfer scheme,
  - the effect of transfers or conferrals of rights by a transfer scheme,
  - 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,
  - the circumstances in which a right transferred or conferred by a transfer scheme is or may be extinguished,
  - the modification of a transfer scheme.



- Sets heat network deployment targets – “heat network supply targets” to be:
  - 2.6 terawatt hours of output by 2027 ( equivalent to 120,000 domestic connections);
  - 6 terawatt hours of output by 2030 (equivalent to 650,000 domestic connections);
- Provides powers to modify the targets up or down as well as target setting criteria;
- Places a requirement on Scottish Ministers to introduce 2035 target by regulations that need to be laid by 1 October 2023;



- Places a requirement on Scottish Ministers to develop a Heat Networks Delivery Plan that sets out amongst other things:
  - the approach the Scottish Ministers intend to take to increase the use of heat networks in Scotland,
  - how the Scottish Ministers propose to meet the targets,
  - how the aggregate heat output of all heat networks in Scotland will be measured,
  - how the deployment of heat networks in Scotland will contribute to meeting emissions reduction targets set in the Climate Change (Scotland) Act 2009.
- Places requirement on Scottish Ministers to lay the Plan before the Scottish Parliament by April 2022.



- Provides powers to set relevant fees for different regulatory measures in the Act;
- Places requirement on Scottish Ministers to develop Local Authority Cost Strategy;
- Sets general relevant provisions such as:
  - Individual culpability where organisation commits offence
  - Crown application: general and powers of entry
  - Regulations (specifies whether they are negative or affirmative procedure)
  - Ancillary provision
  - General interpretation
  - Commencement
  - Short title.

