

HEAT (NETWORKS AND MISCELLANEOUS PROVISIONS) BILL 2024

Contents

PART 1 – PRELIMINARY AND GENERAL	4
HEAD 1 - SHORT TITLE AND COMMENCEMENT	4
HEAD 2 - INTERPRETATION.....	5
HEAD 3 – LAYING OF ORDERS, ETC.....	8
PART 2 – REGULATION OF HEAT NETWORKS.....	9
HEAD 4 – REGULATOR OF HEAT NETWORKS	9
HEAD 5 – RESOURCING OF THE REGULATOR OF HEAT NETWORKS	11
HEAD 6 – FUNCTIONS OF THE COMMISSION	13
HEAD 7 – CONSUMER PROTECTION, COMPETITION, TARIFFS AND CHARGES.....	14
HEAD 8 – COMPLIANCE AND ENFORCEMENT FUNCTIONS OF THE COMMISSION	17
HEAD 8A - CONFIRMATION OF HIGH COURT REQUIRED BEFORE DECISION TO IMPOSE SANCTION TAKES EFFECT.....	20
HEAD 8B - APPEAL TO HIGH COURT AGAINST DECISION TO IMPOSE MAJOR SANCTION	21
HEAD 8C - APPLICATION TO HIGH COURT TO CONFIRM DECISION TO IMPOSE MAJOR SANCTION	22
HEAD 8D - PROVISIONS SUPPLEMENTAL TO DECISIONS OF HIGH COURT.....	23
HEAD 8E - MATTERS TO BE CONSIDERED IN DETERMINING SANCTION TO BE IMPOSED	24
HEAD 9 – DISTRICT HEAT NETWORK DEVELOPMENT PLAN	26
HEAD 10 – HEAT NETWORKS LICENCE AND LICENCING AUTHORITY.....	28
HEAD 11– APPLICATION FOR A HEAT NETWORKS LICENCE.....	30
HEAD 12 – DURATION OF A HEAT NETWORKS LICENCE.....	31
HEAD 13 – REVOCATION OF A HEAT NETWORKS LICENCE	32
HEAD 14 – REGISTER OF A HEAT NETWORKS LICENCE	33
HEAD 15 – APPEAL PANEL	34
HEAD 16 - APPEALS.....	36
PART 3 - HEAT NETWORK AUTHORITY	38
HEAD 17 – ESTABLISHMENT OF THE HEAT NETWORK AUTHORITY	38
HEAD 18 – INTERIM HEAT NETWORK AUTHORITY	41
HEAD 19 – FUNCTIONS OF THE HEAT NETWORK AUTHORITY.....	42
PART 4 – OWNERSHIP OF DISTRICT HEAT NETWORK ASSETS	44
HEAD 20 – POWERS OF ACQUISITION	44
HEAD 21 – POWERS OF ACQUISITION IN THE EVENT OF EARLY EXIT FROM MARKET.....	46

HEAD 22 – TRANSFER OF RIGHTS FOLLOWING STATE ACQUISITION	47
PART 5 – CONSTRUCTION AND OPERATION OF HEAT NETWORKS	48
HEAD 23 –EFFICIENT DISTRICT HEATING AND COOLING	48
HEAD 24 – OBLIGATIONS OF HEAT NETWORK DEVELOPERS.....	49
HEAD 25 – LOCAL AUTHORITY INTERESTS.....	50
HEAD 26 – OPENING OF PUBLIC ROAD FOR ESTABLISHMENT OF UNDERGROUND HEAT NETWORK INFRASTRUCTURE	51
HEAD 27 - COST APPORTIONMENT FOR HEAT NETWORKS INFRASTRUCTURE CONSEQUENTIAL TO ROAD IMPROVEMENTS.....	56
PART 6 – SUPPLIER OF LAST RESORT	58
HEAD 28 - SUPPLIER OF LAST RESORT.....	58
PART 7 – DEMAND AND SUPPLY HEATING AND COOLING.....	60
HEAD 29 - MANDATE ON PUBLIC SECTOR BUILDINGS.....	60
PART 8 – AMENDMENT TO THE MULTI-UNIT DEVELOPMENT ACT 2011	61
HEAD 30 - AMENDMENT TO THE MULTI-UNIT DEVELOPMENT ACT 2011 SECTION 32	61

PART 1 – PRELIMINARY AND GENERAL

HEAD 1 - SHORT TITLE AND COMMENCEMENT

Provide that:

(1) This Bill may be cited as the Heat (Networks and Miscellaneous Provisions) Bill 2024.

(2) This Bill shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and provisions.

Explanatory Note:

This Head provides for the short title, collective citation, construction, and allows for a phased implementation by empowering the Minister to commence different provisions of the Bill at different times. These are standard provisions.

HEAD 2 - INTERPRETATION

Provide that:

In this Bill-

“Act of 1999” means Electricity Regulation Act, 1999;

“Act of 2000” means the Planning and Development Act 2000;

“Commission” means the Commission for Electricity Regulation should be read in accordance with the Act of 1999;

“Communal Heating” or “Communal Cooling” means the distribution of thermal energy in the form of steam, hot water or chilled liquids, from central or decentralised sources of production through a network to a single building divided into separate premises or persons in those premises for the use of space heating or cooling;

“Development” has the meaning assigned to it by section 3 of the Act of 2000;

“District Heating” or ‘District Cooling’ has the meaning assigned to it by the Renewable Energy Directive (EU) 2018/2001;

“District Heat Network” means the relevant Heat Network that, by distributing thermal energy, enables District Heating;

“District Heat Network Development Plan” means the Plan that the Heat Network Authority must develop under Head 9;

“Efficient District Heating and Cooling” has the meaning assigned to it by the Energy Efficiency Directive (EU) 2023/1791;

“Emergency roadworks” means roadworks necessary to eliminate or reduce danger or risk to persons or property, construed in accordance with Part 5 of the Communications Regulation Act, 2002;

“Energy Source” means energy from one or many sources including, but not limited to bioenergy, solar thermal, heat pumps, geothermal, waste heat from industrial installations and data centres;

“Energy from renewable sources” or “renewable energy” has the meaning assigned to it by the Renewable Energy Directive (EU) 2023/2413;

“European Union” means European Union within the meaning of the European Communities Act 1972;

“Final customer” has the meaning assigned to it by SI 426/2022;

“Final User” has the meaning assigned to it by SI 630/2022;

“Heat Network” means a set of interconnected pipes, associated installations and other auxiliary equipment that enables the supply and distribution of District Heating, Efficient District Heating or Communal Heating, excluding the Energy Source and the pipes, installations and equipment that provides the Energy Source;

“Heat Network Authority” means the Heat Network Authority established under Head 17;

“Heat Network Developer” means a natural or legal person who carries out the construction and expansion of a District Heat Network and who is a holder of a Heat Network Licence;

“Heat Network Licence” means a licence granted by the Commission for the construction, and/or operation of District Heat Network or the supply to a District Heat Network;

“Heat Network Operator” includes “district heat network operator” as defined in SI 630/2022 and any natural or legal person who carries out the function of distribution and is responsible for operating, ensuring the maintenance of, and, if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of heating, cooling and domestic hot water within a communal heating system.

“Heat Network Supplier” includes “district heating supplier” as defined in SI 630/2022 and a natural or legal person who carries out the delivery or sale of heating, cooling or domestic hot water to customers through a communal heat network;

“Local authority” shall be construed in accordance with the Local Government Act, 2001;

“Mapping Model” means a digital tool that generates modelled geographical areas with the highest potential for developing district heating networks, for the purpose of preparation of heat network mapping that can be used in the Heat Network Development Plan.

“Minister” means Minister for the Environment, Climate and Communications;

“National Road” shall be construed in accordance with the Roads Act 1993;

“National Road Authority” shall be construed in accordance with the Roads Act 1993;

“Public road” shall be construed in accordance with the Roads Act 1993;

“Road” shall be construed in accordance with the Roads Act 1993;

“Road Authority” shall be construed in accordance with the Roads Act, 1993;

“Schedule of Heat Network Assets” means the schedule prepared by the Heat Network Authority under Head 19;

“SEAI” means the Sustainable Energy Authority of Ireland;

“State Authority” shall be construed in accordance with the Schedule to the State Authorities (Public Private Partnership Arrangements) Act, 2002;

“Strategic Efficient District Heating and Cooling Network” means a heat network that has strategic economic and societal (including climate and security of supply) importance for Ireland, a region or a local area;

“Supplier of Last Resort” means a third-party supplier identified under the Heat Network Licence (Head 10) to operate and/or supply heat in the event of a security of supply or supplier failure incident;

“Thermal Energy” means energy transferred by means of steam, hot water or chilled liquids;

“Transitional Phase” means a 24-month period from the enactment of the Bill where specific obligations against relevant parties as set out requires the delivery of relevant preliminary tasks;

“Vulnerable customer” means a household customer of heat or cooling who is particularly vulnerable to disconnection for reasons of advanced age or physical, sensory, intellectual or mental health;

Explanatory Note:

This Head provides for necessary definitions for the Heat Bill 2024. This is a standard provision to set out definitions and interpretations for terms used in this General Scheme of Bill.

Where relevant, definitions used in this General Scheme that have been drawn from existing Acts have been identified in the Head itself.

For the purposes of this Bill, it will be necessary to define new terms which are not already in existence in domestic or EU legislation

The following definitions have been drafted by officials for the purposes of this General Scheme:

- “Communal Heating” or “Communal Cooling”
- “District Heat Network”
- “District Heat Network Development Plan”
- “Energy Source”
- “Heat Network”
- “Heat Network Assets”
- “Heat Network Authority”
- “Heat Network Developer”
- “Heat Network Licence”
- “Strategic Efficient District Heating and Cooling Network”
- “Supplier of Last Resort”
- “Thermal Energy”
- “Transitional Phase”
- “Vulnerable customer”

HEAD 3 – LAYING OF ORDERS, ETC.

Provide that:

Every order, or regulations made by the Minister, in the case of orders or regulations made by the Minister, or by the Commission, in the case of orders or regulations made by the Commission, shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next subsequent 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Explanatory Note:

This standard provision is based on Section 3 of the Electricity Regulation Act 1999.

PART 2 – REGULATION OF HEAT NETWORKS

HEAD 4 – REGULATOR OF HEAT NETWORKS

Provide that:

Section 9 of the Electricity Regulation Act, 1999 is amended by inserting the following after subsection (1)(x):

(y) to regulate Heat Networks in line with the Heat (Networks and Miscellaneous Provisions) Act 2024,

(ya) to perform its functions under the European Union (Renewable Energy) Regulations (2) 2022 (S.I. No. 350/2022) -, and

(yb) to grant, monitor the performance of, modify, revoke and enforce licences and authorisations pursuant to the Heat (Networks and Miscellaneous Provisions) Act 2024.

Consequential drafting amendment will also be required to delete “and” at the end of section 9(1) (w) and to delete “.” at the end of “x” and insert “,”.

Explanatory Note:

District Heating is a method of delivering thermal energy in the form of hot water through a network of highly insulated pipelines. In this way, heat rather than fuel is delivered to buildings.

District heating schemes are large-scale systems supplied by one, or several, centralised or decentralised heat sources, serving multiple buildings and customers.

In Ireland communal heating schemes are similar to district heating schemes; however, they are smaller-scale operations typically involving single buildings or complexes and they generally use fossil fuel energy sources such as natural gas to provide hot water and space heating. Neither the district nor communal heating sectors are currently regulated in Ireland.

It is intended to appoint a regulatory body in district and communal heating for the purposes of consumer protection and of the implement the Government approved recommendation of the District Heating Steering Group in that regard. This Head places the function of regulation of Heat Networks with the Commission for Regulation of Utilities, through amendment of the Electricity Regulation Act 1999.

The Electricity Regulation Act 1999 established the CRU, and it details the CRU’s role, powers and duties. Due to the extent of functions to be provided for, the Heads have been drafted in such a way that, apart from the insertion of the overall functions in the ERA 1999, the detailed functions and powers of the Heat Network Regulator will be set out in the Heat Bill (and not inserted into the Electricity Regulation Act 1999).

Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (Renewable Energy Directive) required that regulatory functions be undertaken in the district heating sector. This was done by way of S.I. 350 of 2022. As the Commission for Regulation of Utilities is appointed as Ireland’s energy regulator, the provisions in this Head provide for the expansion of the remit of the CRU to include the wider

regulation of the district heating sector, beyond the functions required under European Directives. It is not intended to transpose European obligations in the Heat Bill.

HEAD 5 – RESOURCING OF THE REGULATOR OF HEAT NETWORKS

Provide that:

- (1) Schedule 1 of the Electricity Regulation Act, 1999 is amended by:
 - a. inserting the following new paragraph after section 16A “*16B. For the purposes of meeting expenses properly incurred by the Commission in the discharge of its functions under the Heat (Networks and Miscellaneous Provisions) Act 2024 the Commission may make an order (in this Act referred to as a “levy order”) imposing such levy to be paid each year by heat undertakings as may be specified by the Commission in the order.*”
 - b. Amending paragraph 17 by inserting ‘or 16A’ after ‘paragraph 16’
 - c. Amending paragraph 18 by deleting ‘or’ and replacing with ‘,’ and by inserting ‘, 16B’ after ‘16A’.
 - d. Amending paragraph 19 by deleting ‘or’ and replacing with ‘,’ and by inserting ‘, 16B’ after ‘16A’.
 - e. Inserting the following new paragraph after paragraph 21A
‘21B. The Minister for the Environment, Community and Local Government may from time to time, with the consent of the Minister for Public Expenditure, NDP Delivery and Reform, advance to the Commission out of moneys provided by the Oireachtas such sums as the Minister for the Environment, Community and Local Government may determine for the purposes of expenditure by the Commission in the performance of its functions under the Heat (Networks and Miscellaneous Provisions) Act 2024.
 - f. Replacing ‘paragraphs 21 and 21A’ with ‘paragraphs 21, 21A and 21B’ in section 22
 - g. Replacing paragraph 25 (aa) with “*ensure, as far as is reasonably practicable, that such accounts identify separately in regard to the gas, LPG, electricity, water, petroleum and district heat sectors all elements of cost and revenue, with the basis of their calculation and the detailed attribution methods used, related to the discharge of the Commission’s functions under this Act, the Water Services (No. 2) Act 2013, and the Heat (Networks and Miscellaneous Provisions) Act*”
- (2) Expenses incurred by the Commission carrying out its functions as regulator of Heat Networks may, with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of monies provided by the Oireachtas, on an annual basis until 31 December 2031.
- (3) The monies provided to the Commission for the carrying out of its functions as regulator of Heat Networks may be used in fulfilment of its functions since the Commission’s assignment of regulatory functions in respect of district heating under S.I. No. 350/2022 - European Union (Renewable Energy) Regulations (2) 2022.
- (4) A periodic review shall be undertaken by the Commission to assess the capacity of heat undertakings to support a levy and a summary report provided to the Minister, with a recommendation in relation to any ongoing requirement for exchequer funding.
- (5) A review shall be undertaken by Minister in or before 2030 and the Minister shall make a determination regarding the continuation or cessation of exchequer support for carrying out functions as regulator of Heat Networks.

- (6) The review by the Minister in respect of subsection (5) should assess, inter alia, the case for continued exchequer funding, the capacity for a levy to be imposed, and the availability of other mechanisms to fund the regulatory activity of the Heat Network Regulator.

Explanatory Note:

The Electricity Regulation Act 1999 sets out, in section 8 and Schedule 1, that the CRU be funded by levies and licence income received from the relevant electricity, gas, LPG, water, and petroleum safety regulated entities.

As the District Heat industry in Ireland is nascent, any levy of sufficient scale required to establish a regulatory framework for the sector would be punitive on the small number of actors in the sector. For that reason, this Head provides that the expenses incurred by the Commission for the Regulation of Utilities in the regulation of heat networks be paid initially from monies provided by the Oireachtas.

It is intended that this method of funding would continue until the regulation of the district heating sector can be sustained through an alternative source of funding. It is proposed that a periodic review be carried out by the Commission, with a subsequent review to be carried out by the Minister in or before 2030 to determine the most appropriate funding mechanism beyond 31 Dec 2031.

The review by the Minister should assess, inter alia, the case for continued exchequer funding, the capacity for a levy to be imposed on relevant energy sectors, and the availability of other mechanisms to fund the regulatory activity of the Heat Network Regulator (e.g. licence fee income).

Subhead (3) specifically addresses a funding issue that arose since the Commission was assigned district heating functions in 2022 under S.I. No. 350/2022 - European Union (Renewable Energy) Regulations (2) 2022. As there are no levies yet in the sector, or a way of funding the sector, the Commission required funding to develop an initial district heating regulatory regime - this must be underpinned by primary legislation, as Schedule 1 to the Electricity Regulation Act 1999 at present does not permit for funding in this manner.

It is not intended that this funding arrangement would impact the independence of CRU, as is set out in Section 8 (9) of the 1999 Act.

HEAD 6 – FUNCTIONS OF THE COMMISSION

Provide that:

The Commission shall have the following functions, namely—

- (1) To monitor the development of supplier competition in the heat network sector on final customers, pursuant to Head 7 of this Act.
- (2) To respect contractual freedom with regard to interruptible heat supply contracts, as well as with regard to long-term contracts, provided that they are compatible with European Union law and consistent with European Union policies.
- (3) To monitor the occurrence of restrictive contractual practices, including exclusivity clauses which may prevent Heat Network Operators from contracting simultaneously with more than one Heat Network Supplier or restrict their choice to do so and, where appropriate, to inform the Competition Authority of such practices.
- (4) To grant, monitor, modify revoke and enforce heat network licencing.
- (5) To carry out reporting on improper conduct, in line with Head 8 of this Bill.
- (6) To decide upon and impose effective and proportionate measures where possible, to promote effective competition.
- (7) To cooperate, where appropriate, with the Competition and Consumer Protection Commission, other regulatory bodies and the European Commission, as necessary, when conducting an investigation relating to competition law.
- (8) To advise the Minister on the development of heat networks and on the exercise of the functions of the Minister under this Act.
- (9) To share information, as necessary for the fulfilment of its functions, with the Heat Network Authority.
- (10) To publish information and advice in respect of the dispute resolution function of the Commission in accordance with the provisions of this Act.

Explanatory Note:

This Head strengthens the regulatory role currently being undertaken by the CRU and provides for the Commission to carry out a range of regulatory activities, which have been informed by the provisions of Section 9 of the Electricity Regulation Act 1999

HEAD 7 – CONSUMER PROTECTION, COMPETITION, TARIFFS AND CHARGES

Provide that:

- (1) The Commission shall protect heat network customers through:
 - a. ensuring that the operators of Heat Networks and, inter-alia, their suppliers operate the Heat Network in a manner that is non-discriminatory in respect of renewable energy sources and is as economically efficient as possible.
 - b. developing and consulting with Heat Network Operators and Heat Network Suppliers and on a Price Regulation methodology through which individual Heat Network Suppliers can determine prices for customers in a consistent and transparent manner and such prices can be controlled.
- (2) To take any actions which the Commission, on foot of the monitoring provisions in Head 6, has determined to be necessary to
 - a. Prevent distortion or restriction of competition in the supply of heat to final customers, or
 - b. Ensure final customers are benefitting from competition in the supply of renewable heat
- (3) Where the Commission determines it to be necessary under subsection (2), to—
 - a. examine the charges and the costs underlying such charges for heat which Heat Network Suppliers have determined,
 - b. examine any proposal by the Heat Network Suppliers to alter charges for the supply of heat,
 - c. issue directions or approvals to the Heat Network Suppliers or its assignees, in relation to either or both the nature or the amount of any charge or proposed charge for the supply of heat, to such class or classes of final customers as the Commission may specify, and
- (4) Publish a notice on the Commission’s website of any directions or approvals issued under subparagraph (c) stating the nature of the direction and the reasons for it. The Commission shall set out minimum standards regarding contents of customer charters to be developed by Heat Network Operators and Heat Network Suppliers.
- (5) The Commission shall approve a customer charter, compiled and provided by individual Heat Network Suppliers and Heat Network Operators which shall comply with the minimum standards set out by the Commission and shall include the following:
 - a. Details on how the customer must follow the Heat Network Supplier’s dispute resolution procedure and once this has been exhausted, they may then follow the Commission’s customer complaint resolution procedure. The introduction of dispute and customer complaint resolution services by Heat Network Suppliers.
 - b. Information on disconnections for final users shall be set out in a procedure to be put in place for Heat Network Suppliers before disconnecting final users.
 - c. The time limit for the resolution of complaints and disputes.
- (6) Establish a vulnerable customer register that a Heat Network Supplier must refer to, and establish a process to be followed prior to any disconnection of vulnerable users
- (7) The Commission shall provide a dispute and customer complaint resolution service for the final user.

- (8) District Heating Operators and Suppliers shall comply with the Commission’s dispute resolution service, including, but not limited to, the imposition of proportionate compensation.
- (9) The Commission shall report on the number and type of complaints received and the resolution of these complaints. This data shall be included in the annual report currently provided to the Minister on the Commission performance of its functions.
- (10) Until such time, being a period of not more than 24 months from enactment, as the Commission has developed a Price Regulation methodology for tariff setting, the Commission shall apply a Regulated Tariff Formula for supplier pricing.
- (11) Prior to the implementation of a Price Regulation methodology, Heat Network Suppliers must submit to the Commission, for approval, their tariffs using the Regulated Tariff Formula.
- (12) A Heat Network Licence holder shall provide all relevant information required by the Commission, to inform the development of a Regulated Tariff Formula under this Head.
- (13) Prior to its adoption, a public consultation will be carried out by the Commission on a draft Price Regulation methodology and submissions shall be considered. The proposed methodology shall, following public consultation, be amended as appropriate and finalised.
- (14) The Commission shall develop and publish guidelines on the allocation of costs for heating and cooling, and domestic hot water in multi-occupancy buildings.
- (15) The Commission shall develop common standards for billing which shall be complied with by Heat Networks Operators. In this section:

“Price Regulation” means the use of policies or laws to control or influence prices or tariffs charged for goods or services;

“Regulated Tariff Formula” means a Price Regulation framework whereby fixed and variable cost associated with both an Energy Source and the transmission of heat are included in a tariff setting formula alongside approved additional costs associated with an individual Heat Network.

Explanatory Note:

This Head provides that the Commission, in its role as regulator of heat networks, has the obligation to protect consumers on heat networks from anti-competitive practices and to promote competition. Subsection 1 is informed by section 9 (da), 9(db), 9(dc), 9 (dl), 9 (dm), 9 (dr), 9 (m), 9 (n) the Act of 1999.

In regulating Heat Networks, the Commission shall, inter alia, promote competition through ensuring heat networks remain technology agnostic (i.e. non-discriminatory) with regard to renewable energy sources, set minimum requirements and approve Heat Network Operator/Supplier developed customer charters, and establish a vulnerable customer register and put in place a dispute resolution process. The basis for the establishment of dispute and customer complaint resolution service is set out in Regulation 22A of SI 426/2014, as inserted by SI 630/2022 and is extended to communal heating networks through this Head.

The Head also provides for price controls - during the Transitional Phase, which will last no more than 24 months from enactment of the Bill, the Commission shall develop and consult on Price

Regulation methodologies to determine the enduring approach to price regulation for Heat Networks in Ireland, following which the proposed methodology shall be amended as appropriate and finalised. This is a process that the CRU has followed for gas and electricity, whereby a draft reference price methodology is developed, consulted upon and a decision reached. A price review, based on the methodology, will be undertaken by the CRU every 5 years.

Licensed entities (Heat Network Suppliers) shall, under the provisions of the Bill, submit to the Commission approval of their tariffs using the Regulated Tariff Formula.

HEAD 8 – COMPLIANCE AND ENFORCEMENT FUNCTIONS OF THE COMMISSION

Provide that:

In this Head—

“improper conduct” means—

- (a)
- (b) failure by the holder of a licence under Head 10 to comply with such standards of performance as may be specified by the Commission for the licence concerned,
- (c) failure by a Heat Network Operator to comply with the determination of the Commission under Head 10, or
- (d) failure, by the holder of a licence under Head 10, to keep, and make available on a request being made, data relating to transactions in heat supply contracts with wholesale customers, heat network operators or heat network suppliers.

“inspector” means a person appointed under this section to be an inspector for the purposes of this Part;

“investigation” means an investigation under this section

“investigation report”, in relation to an investigation, means a report in writing prepared, following the completion of the investigation, by the inspector appointed under xx to carry out the investigation;

“major sanction” means—

- (a) a direction to a specified body that the specified body pay a sum, as specified in the direction, but not exceeding €50,000, to the Commission, being the whole or a part of the cost to the Commission of an investigation of the specified body,
- (b) a direction to a specified body that the specified body pay a sum, as specified in the direction, but not exceeding 10 per cent of the turnover of the specified body, to the Commission by way of a financial penalty for improper conduct, by the specified body, specified in the direction, or
- (c) any combination of the sanctions specified in paragraphs (a) and (b);

“minor sanction” means—

- (a) the issue, to a specified body, of—
 - (i) advice,
 - (ii) a caution,
 - (iii) a warning, or
 - (iv) a reprimand,

or

- (b) any combination of any of the sanctions specified in paragraph (a);

“specified body” means a person referred to in any of paragraphs (a) to (d) of the definition in this section of “improper conduct”;

“turnover” means, in relation to a specified body, the turnover of the body in the financial year of the body ending immediately before the financial year in which the improper conduct took place.

- (1) For the purposes of this Head—
 - a. the Commission may appoint such members of its staff as it thinks fit to be inspectors for such period and subject to such terms as the Commission may determine,
 - b. the Commission may appoint such other persons as it thinks fit to be inspectors for such period and subject to such terms (including terms as to remuneration and allowances for expenses) as the Commission, with the approval of the Minister and the consent of the Minister for Public Expenditure and Reform, may determine.
- (2) Each inspector shall, on his or her appointment, be furnished with a certificate of appointment and, when exercising a power conferred on him or her or performing any function imposed by this Part, shall, if requested by any person thereby affected, produce the certificate or a copy of it, to that person for inspection.
- (3) Where the Commission considers it is necessary to do so for the purpose of the performance of any of the functions conferred on it by or under this Act or any other Act of the Oireachtas, the Commission may cause such investigation as it thinks fit to be carried out to identify any improper conduct by a specified body.
- (4) For the purposes of the investigation, the Commission shall appoint an inspector, subject to such terms as it thinks fit—
 - a. to carry out the investigation, and
 - b. to submit to the Commission an investigation report following the completion of the investigation.
- (5) An inspector shall prepare a draft investigation report and provide a copy to the specified body, providing 30 days for submissions to be made by the specified body to the inspector. The inspector shall make any amendments they consider necessary to the draft report.
- (6) Following expiry of that 30-day timeframe, the Inspector shall submit their report to the Commission.
- (7) The Commission shall consider the report and
 - a. impose a minor sanction on the specified body, or impose a major sanction on the specified body, as it thinks fit in the circumstances of the case, or
 - b. if it is not satisfied that improper conduct has occurred or is occurring but is of the opinion that a further investigation of the specified body is warranted, shall cause the further investigation to be carried out, or
 - c. if it is not satisfied that improper conduct has occurred or is occurring and is not of the opinion that a further investigation of the specified body is warranted, shall take no further action.
- (8) With respect to their compliance obligations, Heat Network Operators and/or Suppliers must inform the Commission of any failure by them to supply heat.
- (9) The Commission shall develop and consult on guidelines to inform Heat Network Operators and/or Suppliers on the manner in which they must notify the Commission of any failure by them to supply heat. Following consultation, the Commission shall amend the draft guidelines, as necessary, and finalise the guidelines.
- (10) The Commission shall take appropriate actions to ensure that final customers are benefitting from competition in the supply of District and Communal Heating.

Explanatory Note:

The Act of 1999 provides for compliance and enforcement functions for the Commission and the purpose of this Head is to provide similar compliance and enforcement functions for the purposes of regulating heat networks.

This Head was informed by Part IX of Act of 1999, and provides for the appointment of inspectors to carry out investigations in instances where improper is suspected. The investigator shall, after investigating, prepare a report for submission to the Commission, which will then impose a major or minor sanction, require further investigation or do nothing in the case that it is satisfied that no improper conduct took place. The intent of this Head is to ensure that the Commission has the requisite powers to investigate suspected breaches of Heat Network Licence conditions.

HEAD 8A - CONFIRMATION OF HIGH COURT REQUIRED BEFORE DECISION TO IMPOSE SANCTION TAKES EFFECT

Provide that:

- (1)** A decision under Head 8 to impose a major sanction on a specified body shall not take effect unless the decision is confirmed by the High Court under *Head 8B or Head 8C* as the case may be.

Explanatory Note:

Part IX of the Act of 1999 provides for compliance and enforcement functions for the Commission and the purpose of Heads 8A-8E are to provide for confirmation and appeal of major sanctions in the High Court.

HEAD 8B - APPEAL TO HIGH COURT AGAINST DECISION TO IMPOSE MAJOR SANCTION

Provide that:

- (1) A specified body, the subject of a decision under *Head 8* to impose a major sanction, may, not later than 30 days from the date the specified body received the notice under *Head 8*, appeal to the High Court against the decision.
 - (2) The High Court may, on the hearing of an appeal by a specified body under *subhead (1)*, consider any evidence adduced or argument made, whether or not adduced or made to an inspector or the Commission.
 - (3) Subject to *subhead (4)*, the High Court may, on the hearing of an appeal by a specified body under *subsection (1)*—
 - (a) either—
 - (i) confirm the decision the subject of the appeal, or
 - (ii) cancel that decision and replace it with such other decision as the Court considers appropriate, which may be a decision—
 - (I) to do either or both of the following:
 - (a) impose a different major sanction on the specified body;
 - (b) impose a minor sanction on the specified body,
 - or
 - (II) to impose neither a major sanction nor a minor sanction on the specified body,
- and
 - (b) whether *paragraph (a)(i)* or *(ii)* is applicable, make such order as to costs as it thinks fit in respect of the appeal.
- (4) The High Court shall, for the purposes of *subsection (3)(a)(i)* or *(ii)(I)*, take into consideration the matters referred to in *Head 8E*.]

Explanatory Note:

Part IX of the Act of 1999 provides for compliance and enforcement functions for the Commission and the purpose of Heads 8A-8E are to provide for confirmation and appeal of major sanctions in the High Court.

HEAD 8C - APPLICATION TO HIGH COURT TO CONFIRM DECISION TO IMPOSE MAJOR SANCTION

Provide that:

- (1) Where a specified body does not, within the period allowed under Head 8, appeal to the High Court against a decision under Head 8 to impose a major sanction on the specified body, the Commission shall, as soon as is practicable after the expiration of that period by motion on notice to the specified body make an application in a summary manner to the High Court for confirmation of the decision.
- (2) The High Court shall, on the hearing of an application under *subsection (1)*, confirm the decision under *Head 8* unless the Court considers that there is good reason not to do so.

Explanatory Note:

Part IX of the Act of 1999 provides for compliance and enforcement functions for the Commission and the purpose of Heads 8A-8E are to provide for confirmation and appeal of major sanctions in the High Court.

HEAD 8D - PROVISIONS SUPPLEMENTAL TO DECISIONS OF HIGH COURT

Provide that:

- (1) The decision of the High Court on an appeal under *Head 8B* or an application made under *Head 8C* is final except that the Commission or the specified body the subject of the decision may, by leave of the Court or the Court of Appeal, appeal against the decision to the Court of Appeal on a specified question of law.
- (2) Where the High Court confirms or gives a decision under *Head 8B or 8C*, the Commission shall, as soon as is practicable after the decision is confirmed or given, as the case may be, give notice in writing of the decision to the specified body the subject of the decision.
- (3) Any amount specified in paragraph (a) or (b) of the definition of “major sanction” in *section 55* due to the Commission pursuant to a decision confirmed or given under *section 62(3) or 63(2)*, as the case may be, by the High Court shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform may direct.
- (4) The Commission may recover, as a simple contract debt in any court of competent jurisdiction, from the person by whom it is payable any amount due and owing to the Commission pursuant to a decision confirmed or given under *section 62(3) or 63(2)*, as the case may be, by the High Court.

Explanatory Note:

Part IX of the Act of 1999 provides for compliance and enforcement functions for the Commission and the purpose of Heads 8A-8E are to provide for confirmation and appeal of major sanctions in the High Court.

HEAD 8E - MATTERS TO BE CONSIDERED IN DETERMINING SANCTION TO BE IMPOSED

To provide:

The Commission or the High Court, as appropriate, in considering—

- (a) the minor sanction or major sanction to be imposed on a specified body pursuant to *Head 8*), or
- (b) the minor sanction or major sanction (if any) to be imposed on a specified body pursuant to a decision confirmed or given under *Head 8B* or *Head 8C*, as the case may be,

shall take into account the circumstances of the improper conduct concerned (including the factors occasioning it) and, without prejudice to the generality of the foregoing, may have regard to—

- (i) the need to ensure that any sanction imposed—
 - (I) is appropriate and proportionate to the improper conduct, and
 - (II) if applicable, will act as a sufficient incentive to ensure that any like improper conduct will not occur in the future,
- (ii) the seriousness of the improper conduct,
- (iii) the turnover of the specified body in the financial year of the body ending in the year immediately before the financial year in which the improper conduct last occurred,
- (iv) the extent of any failure by the specified body to co-operate with the investigation concerned of the specified body,
- (v) any excuse or explanation by the specified body for the improper conduct or failure to co-operate with the investigation concerned,
- (vi) any gain (financial or otherwise) made by the specified body or by any person in which the specified body has a financial interest as a consequence of the improper conduct,
- (vii) the amount of any loss suffered or costs incurred as a result of the improper conduct,
- (viii) the duration of the improper conduct,
- (ix) the repeated occurrence of improper conduct by the specified body,
- (x) if applicable, the continuation of the improper conduct after the specified body was notified of the investigation concerned,
- (xi) if applicable, the absence, ineffectiveness or repeated failure of internal mechanisms or procedures of the specified body intended to prevent improper conduct from occurring,

- (xii) if applicable, the extent and timeliness of any steps taken to end the improper conduct and any steps taken for remedying the consequences of the improper conduct,
- (xiii) whether a sanction in respect of like improper conduct has already been imposed on the specified body by a court, the Commission or another person, and
- (xiv) any precedents set by a court, the Commission or another person in respect of previous improper conduct.

Explanatory Note:

Part IX of the Act of 1999 provides for compliance and enforcement functions for the Commission and the purpose of Heads 8A-8E are to provide for confirmation and appeal of major sanctions in the High Court.

HEAD 9 – DISTRICT HEAT NETWORK DEVELOPMENT PLAN

Provide that:

- (1) The Commission shall complete a public consultation on a draft District Heat Network Development Plan, submitted to it for that purpose by the Heat Network Authority.
- (2) Within such time that the Commission may direct, the Heat Network Authority shall prepare a plan (in this Bill referred to as the “District Heat Network Development Plan”) for the development of district heat networks in order to support the planning process and deliver carbon reduction in line with Govt targets, which shall relate to a period of 5 calendar years from the date on which the plan is prepared by the Heat Network Authority.
- (3) The District Heat Network Development Plan shall set out the strategic objectives of efficient district heating and cooling and include, among other things, heat mapping presented at a regional level, existing and planned Heat Network developments (including Efficient District Heating and Cooling networks, proposed areas for the development of future Efficient District Heating and Cooling networks and forecasts of projected CO₂ reductions associated with District Heat Networks).
- (4) The Heat Network Authority shall revise the District Heat Network Development Plan within 5 years from the date on which the plan is approved by the Commission, and the revised plan shall relate to a period of 5 calendar years following the date on which the revised District Heat Network Development Plan is approved by the Commission in line with subsection (6).
- (5) The District Heat Network Development Plan shall take account of-
 - (i) existing and planned heat networks and supply,
 - (ii) interconnections with other heat networks, and
 - (iii) national and regional Government development objectives.
- (6) The District Heat Network Development Plan shall adhere to the requirement to undertake relevant environmental assessments, including SEA, EIA, SFRA and AA, as appropriate.
- (7) The District Heat Network Development Plan, and any subsequent revisions, shall be submitted to the Commission for approval prior to publication, and shall not be published without the approval of the Commission.
- (8) The Heat Network Authority may, separate to any other statutory requirement to consult with the public,-
 - (i) engage in a preliminary public consultation process on the Heat Network Development Plan, including any other form of consultation that the Commission may direct, before submitting the District Heat Network Development Plan to the Commission for approval, and

- (ii) report in writing to the Commission on the results of the preliminary public consultation process when submitting the District Heat Network Development Plan to the Commission.
- (9) The Commission may, from time to time, give directions to the Heat Network Authority in respect of -
 - (i) matters to be specified in the District Heat Network Development Plan, and
 - (ii) the review and revision by the Heat Network Authority of the District Heat Network Development Plan.

and the Heat Network Authority shall comply with directions given by the Commission under this subsection.

- (10) The Commission may approve, require amendments or refuse to approve the draft District Heat Network Development Plan developed by the Heat Network Authority.
- (11) In the event that the Commission does not approve the draft District Heat Network Development Plan, the Commission shall provide its reasoning to the Heat Network Authority for consideration in the development of a revised draft District Heat Network Development Plan.

Explanatory Note:

This Head introduces the requirement for a Heat Network Development Plan to support national level planning and delivery of heat networks.

As set out in the Head, the plan shall set out the strategic objectives of efficient district heating and cooling and include, among other things, heat mapping presented at a regional level and existing and planned Heat Network developments. The Heat Network Development plan shall set out how efficient district heating can be developed in order to guarantee and Climate Action Plan (CAP) and EU targets in relation to efficient district heating and cooling.

This Head places responsibility on the Commission, as Heat Network Regulator, to publicly consult on any draft District Heat Network Development Plan prepared by the Heat Network Authority under Head 19. The independence of the Commission in the operation of its function shall always be maintained. This Head also provides that the Commission would have responsibility for final approval of the District Heat Network Development Plan.

The District Heat Network Development Plan will set out the strategic objectives of efficient district heating and cooling and include, among other things, heat mapping presented at a regional level, existing and planned Heat Network developments and forecasts of projected CO₂ reductions associated with District Heat Networks. This will allow for future plan led development of district heating in Ireland and facilitate the interconnected growth of networks.

HEAD 10 – HEAT NETWORKS LICENCE AND LICENCING AUTHORITY

Provide that:

- (1) The Commission shall be the licencing authority for the Heat Network licence.
- (2) The Commission shall implement a licencing regime for the construction, operation, and supply of energy to district heating and cooling networks and the supply of energy to all other Heat Networks.
- (3) The Commission shall enforce licence conditions and other relevant requirements.
- (4) During the Transitional Phase a Licence that shall be known as a Conditional Licence shall be prepared by the Commission and a Conditional Licence shall provide for the construction, operation, and supply of energy to district heating and cooling networks and the supply of energy to all other Heat Networks during the Transitional Phase. During the Transitional Phase, the Commission shall develop and publish the criteria and standard conditions of a Heat Network Licence, to come into effect following the expiration of the Transitional Phase, which may include, but are not limited to:
 - (i) ensuring minimum standards with respect to the security of supply for heat to final customers.
 - (ii) the identification and contractual obligation to provide for a step-in Supplier of Last Resort, in accordance with Part 6
 - (iii) compliance with any safety regulations adopted for heat undertakings
 - (iv) Guaranteed standards of performance, including ensuring that the Heat Network is maintained by a competent person(s) and is in good working order.
 - (v) A requirement to provide such information to the Commission as the Commission may require;
 - (vi) A requirement to adhere to technical standards determined by the Regulator
 - (vii) A requirement that the interconnectedness of heat networks is facilitated and made feasible
 - (viii) A requirement that, where identified and available, it shall be technically feasible for additional heat sources to connect to a heat network

and where the Commission grants such a licence, that licence shall be subject to such terms and conditions as may be specified in the licence.

- (5) The licensing authority shall develop proposals in relation to licence criteria and standard conditions, which shall be issued for public consultation.
- (6) Submissions received in response to a public consultation under subsection (6) will be considered by the Commission when developing the licencing criteria and standard conditions.
- (7) The Commission may grant or refuse an application for a Heat Network Licence, subject to review of compliance with criteria as set out in Head 11(6).
- (8) The Commission may amend a licence with or without the consent of the holder of the licence.
- (9) The Commission shall inform the licence holder, 28 days in advance, of any amendment being implemented.

- (10) A person shall not construct, operate or supply a Heat Network unless that person holds the relevant Heat Network licence issued by the Commission.
- (11) The Commission shall not be obliged to ensure that Heat Network Developers, Operators and Suppliers are in possession of any other licences or permits relevant and required in relation to Heat Networks.
- (12) Sanction for improper conduct shall be in accordance with the provisions established in Head 8.
- (13) The holder of a Heat Network Licence may carry out emergency roadworks where necessary, in accordance with Head 26.

Explanatory Note:

This Head makes provision for the Commission as the licencing authority for a Heat Network licence. This Head permits the Commission to develop a licencing regime, for the purposes of development or construction, operation, and supply of energy to Heat Networks. It is not intended that any requirements for environmental or other assessments would be avoided in the development of a heat network.

It is envisaged that a single licencing system will be established, with Heat Network Developers, Operators & Suppliers each choosing one or more sections for completion in the licence categories, depending on the activity(ies) in which they will engage. The conditions attached to conditional licences will be developed by the Regulator and issued where appropriate during the transitional phase. It is envisaged that conditional licences will be deemed to remain active between the ending of the transitional phase and the granting on enduring Heat Network Licences subject to compliance.

This Head sets out conditions that may attach to a Heat Networks Licence. The licensee must comply with all technical standards for district heating as set out by the Heat Network Regulator, ensure the security of supply for customers and put in place a Supplier of Last Resort, allow for the growth of networks and guarantee standards of performance.

Sanction for breach of licence conditions is provided for in Head 8.

HEAD 11– APPLICATION FOR A HEAT NETWORKS LICENCE

Provide that:

- (1) An application for a Heat Networks licence shall be made in writing to the Commission and contain such information as the Commission may specify.
- (2) An application for a licence under this section shall be accompanied by such a fee as the Commission may determine to be appropriate.
- (3) A licence granted by the Commission may permit the applicant to:
 - (i) Construct and develop;
 - (ii) operate; or
 - (iii) supply energy to Heat Networks.
- (4) The licensing authority shall grant a Heat Network licence once it is satisfied that the applicant meets the required criteria as set out in sub section (5) and (6) and can perform the activities that would be authorised by the licence.
- (5) In assessing an applicant’s ability to carry out the functions for which the licence was sought, the Commission shall develop and use an appropriate assessment procedure.
- (6) The criteria specified in the assessment procedure provided for in subsection (5) may relate to:
 - a) the legal nature of the business, partnership, limited company etc.
 - b) Details of previous undertakings in respect of heat networks, within or outside of Ireland;
 - c) Financial details for the company/partnership such as annual reports; bank statements for the business etc.
 - d) the purposes for which the person has made or may make a Heat Licence application;
 - e) Details of any enforcement actions taken by regulators within or outside Ireland.

Explanatory Note:

This Head outlines application procedure for a Heat Network Licence, in addition to setting out the criteria required to receive a licence. The Head provides for the Commission, as licencing authority, to develop and implement an assessment procedure for the purposes of determining the suitability of a licence applicant to undertake the functions for which a licence is sought. In considering the criteria for the assessment procedure, the provisions of the Maritime Area Planning Act 2021 were examined.

The Commission currently provides a range of licences, consents and authorisations for electricity and gas, and it is intended that licencing for the heat sector would align with those the procedures and processes associated with those already in place in other sectors, where appropriate.

HEAD 12 – DURATION OF A HEAT NETWORKS LICENCE

Provide that:

- (1) A Heat Networks Licence shall take effect on the date specified in the licence and will continue to have effect for the duration of the licence, unless the licence is revoked or amended by the licensing authority or surrendered by the person holding the licence.
- (2) The licence will be valid for a duration set out in the licence conditions.
- (3) The licence holder shall comply with all licence conditions as set out by the Commission.

Explanatory Note:

This Head allows for the duration of a licence to be determined in the conditions of the licence. This is consistent with licencing in other sectors, for example for interconnection the licence shall continue until determined by not less than 25 years notice in writing, given by the Authority (CRU). Provisions for the revocation of heat networks licences are contained in Head 13.

While it is important that a Heat Network Developer, Operator and/ or Supplier should have certainty in terms of its licencing timeframe, to allow the planning of investment and customer growth, the reason for which the licence is sought will have a bearing on the duration for which a licence should be provided and this Head provides for the Commission to tailor the duration of a licence according the activity to be licensed.

HEAD 13 – REVOCATION OF A HEAT NETWORKS LICENCE

Provide that:

- (1) The licensing authority may revoke a Heat Network Licence including those issued during the transitional phase if it determines that the licence holder:
 - (a) can no longer perform the activities authorised by the licence or
 - (b) has failed to comply with a condition of the licence.
- (2) At any point during the licence period, where the licensing authority determines that the holder of a licence has contravened, is contravening or is likely to contravene a condition or requirement, it shall issue a notice, in writing, to the holder of the licence.
- (3) The notice shall specify –
 - (a) the condition(s) or requirement(s) which the licensing authority considers that the holder of the licence has contravened, is contravening or may be likely to contravene, or
 - (b) the acts or omissions which in the opinion of the licensing authority has constituted, may constitute or would be likely to constitute one or more contraventions of the condition(s) or requirement(s) concerned,
 - (c) specify the period (being not less than 28 days from the date of the issuing of the notice) within which representations or objections may be made, by the holder of a licence.
- (4) The holder of a licence may, within the time specified, make representations or objections to the Commission in response to the notice issued under section (2).
- (5) The Commission shall consider any representations or objections which are made and not withdrawn in relation the revocation of a Heat Network Licence.
- (6) Following consideration of any representations or objections or appeal processes, the Commission may
 - (a) give a direction to the holder of a licence to take such measures as are necessary to cease the contravention or to prevent a future contravention or
 - (b) revoke the licence or
 - (c) take no further action.

Explanatory Note:

This Head provides a process where the Commission determines the holder of a Heat Networks licence cannot perform their duties, leading to the revocation of a Heat Networks Licence.

HEAD 14 – REGISTER OF A HEAT NETWORKS LICENCE

Provide that:

- (1) The licensing authority shall maintain a register of all Heat Networks Licences.
- (2) This register shall contain information relating to the:
 - (a) The operating name of the Heat Network Developer, Supplier or Operator
 - (b) The geographical area(s) within which the Heat Network Developer, Supplier or Operator may operate.
 - (c) The geographical area(s) of the Heat Network.
 - (d) Contact information for the Heat Network Developer, Supplier or Operator
 - (e) The energy source(s) the Heat Network Supplier is currently operating, detail on ancillary heat sources and on thermal storage infrastructure.
 - (f) Information on the renewability and efficiency of the energy source(s).
 - (g) Any other information deemed relevant by the Commission for the purposes of the register.
- (3) The Commission may add to the information contained in the register as they require.
- (4) Heat Network Developers, Operators and Suppliers shall provide any additional information related to the licence or the Heat Network in question when requested by the Commission.
- (5) The register shall be made publicly available by the Commission;
- (6) The register shall be maintained in accordance with GDPR and the Data Protection Act, 2018.

Explanatory Note:

The purpose of this Head to enable the Commission to maintain a register of licenced persons undertaking activity on Heat Networks, in order to facilitate the protection of the interests of the public as customers of heat networks, so that they obtain an acceptable standard of competence within the heat network sector, and to ensure that access to information in respect of the heat sources and their efficiency is readily available. The register of licenced persons shall comply with GDPR.

HEAD 15 – APPEAL PANEL

Provide that:

- (1) The Minister shall establish a panel to be known and, in this Act, referred to as an “Appeal Panel”.
- (2) An Appeal Selection Panel established under this section shall consist of at least ten persons, drawn from the tender appeals panel,
- (3) An Appeal Panel shall consist of three persons drawn from the Appeal Selection Panel; one of whom shall be appointed by the Minister to be the chairperson of the Appeal Panel.
- (4) Members of the Appeal Panel shall be appointed on such terms and conditions as are appropriate.
- (5) The remuneration and allowances for expenses, if any, of a member of an Appeal Panel shall be such as may be determined by the Minister, with the approval of the Minister for Public Expenditure, NDP Delivery and Reform, and shall form part of the expenses of the Commission.
- (6) The costs of an Appeal Panel shall form part of the expenses of the Commission.
- (7) An Appeal Panel shall have all the powers and duties of the Commission that are necessary to carry out the functions of the Appeal Panel under this Act.
- (8) An Appeal Panel shall be independent in the performance of its functions.
- (9) An Appeal Panel shall hear and determine an appeal against-
 - a. a refusal to grant a licence,
 - b. a revocation of a licence,
 - c. an amendment to a licence, or
 - d. a refusal to amend a licence,
- (10) An Appeal Panel shall have the powers, rights and privileges vested in the High Court or a judge thereof on the hearing of an action in respect of—
 - a. the enforcement of the attendance of witnesses and their examination on oath or otherwise, and
 - b. the compelling of the production of documents.
- (11) A summons signed by the chairperson of the Appeal Panel or by such other member of the Appeal Panel as may be authorised by the Appeal Panel may be substituted for and shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production of documents.
- (12) Where a person—
 - a. being duly summoned to attend before an Appeal Panel makes a default in attending,
 - b. being in attendance as a witness before an Appeal Panel refuses to take an oath lawfully required by that Panel to be taken or to produce any document in his or her power or control lawfully required by that Appeal Panel to be produced by him or her or to answer any question to which the Appeal Panel may lawfully require an answer, or
 - c. being in attendance before an Appeal Panel does anything which, if the Appeal Panel were a court of law having power to commit for contempt, would be contempt of court,

that person shall be guilty of an offence and shall be liable on summary conviction to a class A fine.

(13) A witness before an Appeal Panel shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

(14) An Appeal Panel may

- a. confirm the refusal to grant a licence or
- b. direct the Commission to grant a licence with or without conditions laid down by the Appeal Panel and where such a direction is made, the Commission shall, in accordance with the decision of the Appeal Panel, grant the licence, subject to such conditions as may be specified by the Commission which are not inconsistent with the decision of the Appeal Panel.

(15) In the case of an amendment of a licence, the Appeal Panel may

- a. confirm the modification or
- b. direct the Commission not to make it.

(16) In the case of a refusal to amend a licence, the Appeal Panel may:

- a. confirm the decision of the Commission or
- b. direct the Commission to amend the licence.

(17) The Appeal Panel shall notify the persons concerned of its decision in respect of an appeal under this section.

Explanatory Note:

This Head provides for the establishment in advance of an Appeal Panel by the Minister which can be used when and as required. Following receipt of an appeal, the panel required under Head 16 to consider an appeal will be drawn from this wider panel.

An Appeal Selection Panel of at least ten members will be compiled by the Commission. This body will remain in place for an agreed number of years. The reason for establishing a body is to ensure that there are sufficient qualified people to hear an appeal as quickly as possible. Three panellists will be drawn from the body to hear an appeal.

Part IV of the Electricity Regulation Act 1999 provides the basis on which this Head has been drafted.

HEAD 16 - APPEALS

Provide that:

- (1) This section applies to the appeals process.
- (2) An appeal applicant is: —
 - a. a person whose application for a licence is refused,
 - b. a person whose licence is revoked
 - c. a person who is a holder of a licence and has had refused a request by them to the Commission to amend a licence or
 - d. a person who is a holder of a licence and who wishes to appeal against a decision of the Commission to amend the licence concerned.
- (3) An appeal applicant who has followed the appeal process and received a decision by the Commission, may subsequently amend their licence application and commence the process afresh. .
- (4) Any re-application under this section shall, in accordance with Head 11, be accompanied by such a fee, if any, as the Commission may determine to be appropriate.
- (5) In the event of a re-application being refused, the applicant may, within 28 days, appeal that decision to the Appeal Panel provided for under Head 15.
- (6) All appeals under this Act shall be determined within two months.
- (7) The Commission shall, within a period of no more than 14 days, appoint the Appeal Panel referenced in Head 15.
- (8) The Appeal Panel appointed under Head 15 shall specify on notice to the Commission and the appellant the date on which the appeal is to be heard and shall hear and determine the appeal .
- (9) Subject to this Act, the procedure at a hearing shall be determined by the Appeal Panel appointed under subsection (7).
- (10) The Appeal Panel shall take such measures as are reasonably practicable to ensure that the appellant is given a reasonable opportunity—
 - a. to present its case, whether at a hearing or otherwise, and
 - b. to make submissions in relation to the issues arising in the proceedings.
- (11) A party to the appeal may—
 - a. appear without representation, or
 - b. be represented by an agent.
- (12) The Appeal Panel may do all or any of the following:
 - (a) require evidence or argument to be presented in writing and decide on the matters on which it will hear oral evidence or argument.
 - (b) require the presentation of the respective cases of the parties before it to be limited to the periods of time that it determines are reasonably necessary for the fair and adequate presentation of the cases,
 - (c) adjourn proceedings to any time and place, or
 - (d) at any stage dismiss proceedings if the applicant has withdrawn the application to which the proceedings relate.

- (13) The determination of the Appeal Panel shall be made by a majority. In the case of an equal division of votes the chairperson shall have the casting vote.
- (14) The Appeal Panel shall notify the parties to the appeal of its determination in relation to the appeal.
- (15) The Appeal Panel shall, as soon as practicable thereafter, cause such determination to be published in such manner as may be decided by the Appeal Panel, to include publication of the determination in a newspaper circulating in the State.
- (16) The determination shall set out—
- (a) any findings on material questions of fact, referring to the evidence or other material on which those findings were based,
 - (b) the Appeal Panel's understanding of the applicable law, and
 - (c) the reasoning processes that led the Appeal Panel to the conclusions that it made.

Explanatory Note:

This Head provides for the procedure for appeals using S.I. No. 495/2017 - Electricity Regulation Act 1999 (Establishment of Appeal Panel) Order 2017 as a precedent.

Unlike the 1999 Act, there will be an Appeal Selection Panel established, in advance, under Head 15 that will be drawn from as when and as required. This aims to reduce waiting times for appeals. For this reason, the procedures for the appeals are provided in the Head rather than providing for a power for the Minister to establish those procedures by order.

PART 3 - HEAT NETWORK AUTHORITY

HEAD 17 – ESTABLISHMENT OF THE HEAT NETWORK AUTHORITY

Provide that:

- (1) The Minister shall by order appoint a day to be the establishment day for the purposes of this Act.
- (2) There shall stand established on the establishment day a body to be known in the Irish language as Údarás Lónra Teasa or in the English language as the Heat Network Authority to perform the functions conferred on it by this Act and in this Act referred to as the “Authority” to perform the functions conferred on it by this Act.
- (3) The Authority shall be a body corporate with perpetual succession and a common seal and power to sue and be used in its corporate name and to acquire, hold and dispose of land or an interest in land, and to acquire, hold and dispose of any other property.
- (4) The seal of the Authority shall be authenticated by the signature of the chairperson of the Authority, or by the signatures of any other member of the Authority and a member of the staff of the Authority authorised by the Authority to act in that behalf.
- (5) Judicial notice shall be taken of the seal of the Authority and every document purporting to be an instrument made by and to be sealed with the seal of the Authority (purporting to be authenticated in accordance with this section) shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.
- (6) The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, NDP Delivery and Reform, be paid out of moneys provided by the Oireachtas.
- (7) The Minister may, following consultation with the Authority, the Minister for Public Expenditure, NDP Delivery and Reform and any other Minister of the Government who, in the opinion of the Minister, is concerned, by order assign to the Authority such additional functions relating to heat networks as the Minister considers appropriate.
- (8) The Board shall consist of 12 members.
- (9) The Board shall direct the functions of the Authority in accordance with this Act and shall satisfy itself as to the adequacy of the systems in place for that purpose and shall keep under review the performance of the Authority.
- (10) The Minister, with the consent of the Minister for Public Expenditure, NDP Delivery and Reform, shall appoint the members of the Board other than the Chief Executive, and the members appointed by the Minister shall, subject to the other provisions of this section, hold and vacate office as the Minister may determine.
- (11) The Minister shall designate one member of the Board (other than the Chief Executive) as chairperson for a period not greater than 5 years.
- (12) There shall be a chief executive officer of the Authority who shall be known, and is referred to in this Act, as the “Chief Executive”.
- (13) The Chief Executive shall be appointed by the Board.
- (14) The Chief Executive shall be a member of the Board.
- (15) The Chief Executive may be removed or suspended from office by the Board.

- (16) The Authority may appoint persons to be members of the staff of the Authority and the grades of the staff of the Authority and the numbers of staff in each grade shall be determined by the Board with the consent of the Minister and the Minister for Public Expenditure, NDP Delivery and Reform.
- (17) Members of staff of the Authority shall hold their employment on such terms and conditions (including those relating to remuneration and allowances for expenses) as the Authority may, with the consent of the Minister and the Minister for Public Expenditure, NDP Delivery and Reform, determine from time to time.
- (18) The Minister shall from time to time, with the consent of the Minister for Public Expenditure, NDP Delivery and Reform, advance to the Authority out of moneys provided by the Oireachtas, such sums as the Minister may determine for the purposes of expenditure by the Authority in the performance of its functions.
- (19) In determining the amount of any such moneys to be paid in any financial year the Minister shall give due consideration to the income and expenditure of the Authority, and for that purpose the Board shall furnish to the Minister as and when requested information regarding such income and expenditure.
- (20) The Authority may, for the purpose of providing for current or capital expenditure, from time to time, borrow money (whether on the security of the assets of the Authority or otherwise), including money in a currency other than the currency of the State, subject to the consent of the Minister and the Minister for Public Expenditure, NDP Delivery and Reform and to such conditions as they may specify.
- (21) The Authority shall submit, in such form as the Minister may direct, an annual report of its activities after the end of the financial year to which it refers and the Minister shall cause copies of the report to be laid before each House of the Oireachtas not later than six months after the end of that financial year.
- (22) The Authority shall keep, in such form as may be approved of by the Minister, with the consent of the Minister for Public Expenditure, NDP Delivery and Reform, all proper and usual accounts of money received and expended by it.
- (23) The accounts of the Authority shall be submitted annually to the Comptroller and Auditor General for audit at such times as the Minister, with the consent of the Minister for Public Expenditure, NDP Delivery and Reform, shall direct and when so audited, shall, together with the report of the Comptroller and Auditor General thereon, be presented to the Minister, who shall cause copies thereof to be laid before each House of the Oireachtas.
- (24) The Chief Executive shall whenever he or she is required to do so by a Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and the reports of the Comptroller and Auditor General, give evidence to that Committee on all matters pertaining to the expenditure of the Authority.

Explanatory Note:

The Head provides for the establishment of a new body to be known as the Heat Network Authority. The functions of the HNA include centralising the approach to the strategic development of the district heating sector on a national basis. It will support and oversee the nascent district heating sector and support ongoing balanced and timely delivery of Heat Networks. The Authority will be responsible for the operational maintenance and management of Heat Networks under state

ownership alongside the planning and design of those networks. This is in line with the recommendation of the District Heating Steering Group 2023 report, approved by Government and draws on the Sustainable Energy Act, 2022 during drafting.

HEAD 18 – INTERIM HEAT NETWORK AUTHORITY

Provide that:

- (1) Without prejudice to its functions under SI 426/2014 the SEAI is designated as the interim Heat Network Authority and shall perform such functions of the Heat Network Authority that the Minister may, by Order, specify.
- (2) An Authority established under Head 17 will take over the interim Heat Network Authority functions of the SEAI, and such other functions in Head 19, as necessary.
- (3) The Sustainable Energy Act, 2002, is amended in section 6 by insertion after subsection (1)(g):
 - (h) to perform the functions of the Heat Network Authority under the Heat (Networks and Miscellaneous Provisions) Act 2024.

Explanatory Note:

This Head designates SEAI as the Heat Network Authority on an interim basis until such time as a Heat Network Authority is established under Head 17. The Minister may determine the specific functions, from within those allowed for in Head 19, that the SEAI shall as interim Heat Network Authority carry out.

The District Heating Steering Group Report recommended that, until the appointment of a central body overseeing the sector, district heating should continue to be delivered through the accelerated delivery of existing and planned projects. Advice and support should be provided centrally, to ensure standardisation and acceleration of projects, through a new National District Heating Centre of Excellence under the remit of the Sustainable Energy Authority of Ireland in partnership with relevant expert organisations, and with corporate governance oversight provided by the Department of Environment, Climate and Communications (DECC).

The Report also recommended that private sector involvement in the industry should be encouraged and facilitated as much as possible from the outset, with the District Heating Centre of Excellence ensuring a coherent and standardised approach to the roll out. This will also support a future move to a single State entity or a utility.

This Head is in keeping with the recommendation of the District Heating Steering Group 2023 report, approved by Government, to provide a centralised support for district heating developers. This approach has been adopted to ensure that, on establishment of the HNA, a managed and organised transfer of activity can be accomplished, thereby minimising its impact on the sector.

HEAD 19 – FUNCTIONS OF THE HEAT NETWORK AUTHORITY

Provide that:

- (1) The Heat Network Authority shall oversee the development and expansion of heat networks to ensure an orderly development of the sector nationally that ensures connectivity across networks and maximises the potential of the sector.
- (2) The Heat Network Authority shall be responsible for the development of relevant methodologies that will define the process of identification of Strategic Efficient District Heating and Cooling Networks using the mapping model.
- (3) The Heat Network Authority shall be responsible for maintaining, publishing and updating the mapping model for Strategic Efficient District Heating and Cooling Networks.
- (4) The Heat Network Authority shall advise the Minister on the thresholds pertaining to Strategic Efficient District Heating and Cooling Networks and the Minister shall determine, by regulation, the threshold to apply in order to define Strategic Efficient District Heating and Cooling Networks.
- (5) In determining the thresholds referenced in (3), the Heat Network Authority shall consider, but not be limited to;
 - (i) power capacity of the primary source(s) of production (measured in MWh)
 - (ii) energy consumption associated with the network (measured in MWh)
 - (iii) annualised CO₂ savings (measured in tonnes of CO₂) or emissions savings (measured in gCO₂/kWh)
- (6)
- (7) The Heat Network Authority shall develop and publish a Schedule of Heat Network Assets associated with Strategic Efficient District Heating and Cooling Networks.
- (8) The Heat Network Authority shall be responsible for:
 - (i) the provision of guidance to District Heat Network Developers, Operators, Suppliers and project sponsors on design, development, funding and delivery of Efficient District Heating and Cooling networks;
 - (ii) engagement with, and providing support to, the District Heating sector in terms of capacity building including inter alia communities, Local Authorities, Heat Network Developers, and project sponsors.
 - (iii) Carrying out financial and economic appraisal of the development of a specific fund, analysing investment options and designing optimal financing strategies for deployment of Strategic Efficient Heating and Cooling District Heating in Ireland.
- (9) The Heat Network Authority shall be responsible for the development and oversight of a District Heat Network Development Plan, in accordance with the provisions of Head 9.
- (10) For the purposes of preparation of a Heat Network Development Plan, the Heat Network Authority may request any data and information requested in relation to Efficient District Heating and Cooling Networks and Potential Demand for District Heating and Cooling from Heat Networks Operators and Suppliers and other heating fuel network operators and heating fuel suppliers. Heat Networks Operators and Suppliers shall comply with any data and information requested by the Heat Network Authority in relation to District Heating and Cooling Networks.
- (11) The Minister may provide, by regulations, further functions of the Heat Network Authority as required.

Explanatory Note:

This Head sets out the primary functions of the Heat Network Authority, to allow for the orderly development of the sector nationally, the delivery of Strategic Efficient District Heating and Cooling Networks, and the preparation of a District Heating Network Development Plan, as provided for under Head 9. The Heat Network Development Plan will directly inform the development of relevant planning policy, at national, regional and development plan level to effectively support the consent process on any relevant application to the planning authority.

The Head provides that the Heat Network Authority shall advise the Minister on the thresholds threshold to apply to Strategic Efficient District Heating and Cooling Networks.

The Head also provides for the Minister to direct the functions to be performed by the Heat Network Authority. A regulation making power is included to provide for further district heating related functions of the Authority in the future on the basis that as the sector is in its infancy there may be functions of the Authority that are necessitated but not foreseen at this stage.

PART 4 – OWNERSHIP OF DISTRICT HEAT NETWORK ASSETS

HEAD 20 – POWERS OF ACQUISITION

- (1) The State may acquire Strategic Efficient District Heating and Cooling Networks where it considers it to be in the public interest to do so.
- (2) The Government may, by Order, designate the Heat Network Authority or another State authority/body as the authority that may acquire a heat network under subsection (1) on behalf of the State.
- (3) If and when the State authority referred to in subsection (2) seeks to acquire a Strategic Efficient District Heating and Cooling Network, the acquiring authority shall serve notice in writing of the intention on the owner of the Strategic Efficient District Heating and Cooling Network or the holder of the Heat Networks Licence, if different, and any other affected parties.
- (4) The Notice shall specify
 - (i) the procedure for the valuation and the date for the completion of the valuation of the Strategic Efficient District Heating and Cooling Network,
 - (ii) the date upon which the authority referred to in intends to acquire the Network,
 - (iii) the timeframe in which the parties notified may make representations to the acquiring authority
 - (iv) the Strategic Efficient District Heating and Cooling Network to be acquired.
- (5) Subject to the provisions in Head 21, the authority designated under subsection (2) shall not seek to acquire a Strategic Heat Network, or part thereof prior to the expiration of a 30-year period from the granting of the first Heat Network Licence for the Strategic Heat Network.
- (6) A Heat Network which is deemed to be a Strategic Efficient District Heating and Cooling Network which was in operation or under development prior to the enactment of this Bill may be acquired under subsection (3).
- (7) With respect to subsection (6), the commencement of the 30-year period prior to acquisition shall be determined with reference to the availability of metering data and the initialisation of the transfer of thermal energy within the heat network.
- (8) The acquiring authority shall not serve notice of its intention to acquire a Strategic Efficient District Heating and Cooling Network without prior consultation with the Minister and the Minister for Public Expenditure, NDP Delivery and Reform.
- (9) The acquisition of any Strategic Efficient District Heating and Cooling Network under subsection (3) shall be based on an independent and fair valuation of the Strategic Efficient District Heating and Cooling Network in question.
- (10) A fair valuation methodology of the Strategic Efficient District Heating and Cooling Network shall be determined and will take into consideration, among other things, any previous use of State funding to construct the heat network.
- (11) In the case of a dispute on compensation, the value of the Strategic Efficient District Heating and Cooling Network shall be determined by an independent arbitrator.
- (12) The decision of the independent arbitrator shall be final subject to an appeal on a point of law to the High Court.

Explanatory Note:

At present, a number of entities – public sector, utilities or private sector entities - may develop Heat Networks. The District Heating Steering Group Report recommends that legislation makes provision for State ownership of district heating infrastructure in the longer term, similar to gas and electricity networks, in order for district heating to develop nationally as a sector under central direction, with a single State entity or a utility overseeing the development and expansion of networks.

The acquiring body/Heat Network Authority should have clear legislative purpose or function which requires the acquisition of the heat networks (“common good”) - at present, the intention is that the Heat Network Authority will acquire the Strategic Infrastructure; however, this body must still be established, therefore the Head leaves open the possibility for another State body to acquire the assets should the need arise.

The Head considered the provisions in section 45 of the Electricity (Supply) Act 1927 when drafting (which relates to the compulsory purchase of land).

The Head provides that:

- The Heat Network Authority or another state authority can serve notice of its intent to acquire Strategic Efficient District Heating and Cooling Networks
- The provisions within this Head shall not be applied prior to the expiration of a 30-year period, the timing of which shall be set out as a condition of the Heat Networks Licence. The HNA/acquiring body should ensure the acquisition of Strategic Efficient District Heating and Cooling Networks serves the common good.
- The Strategic Efficient District Heating and Cooling Networks shall be independently valued prior to acquisition, and an appeals process on valuation is provided for.
- Compensation should be based on a fair valuation for the Strategic Efficient District Heating and Cooling Network – the value of any State supports and grants provided in respect of Strategic Efficient District Heating and Cooling Networks will be addressed through the terms and conditions of grant arrangements. It is intended that pass-through costs to customers paid through grant arrangements shall be taken into consideration as part of the fair valuation process.

HEAD 21 – POWERS OF ACQUISITION IN THE EVENT OF EARLY EXIT FROM MARKET

Provide that:

- (1) The limitations of subsection (5) of Head 20 shall not apply in the event that:
 - a) a Strategic Efficient District Heating and Cooling Network is being sold by the Heat Network developer prior to the expiration of the 30-year period from the date of granting of the licence
 - b) The Heat Network Operator or Heat Network Supplier by whom the Strategic Efficient District Heating and Cooling Network is owned cease to trade.
 - c) The Heat Network Operator or Heat Network Supplier goes into property receivership, examinership, liquidation, is declared bankrupt, becomes insolvent or is otherwise unable to provide heat.
- (2) In the event that an outcome detailed in subsection (1) (a), (b), or (c) arises, the relevant body referred to in Head 20 shall be afforded primacy in the right to acquire a Strategic Efficient District Heating and Cooling Network before any other interests are registered.
- (3) In the event that transfer of ownership or the sale of a Strategic Efficient District Heating and Cooling Network to an entity other than a State authority occurs prior to the expiration of the 30-year period, the State shall retain the right to acquire the Strategic Efficient District Heating and Cooling Network following the expiration of the 30 years after the granting of the initial licence for the Heat Network.

Explanatory Note:

This Head provides that the State will have a legal basis to ensure that it has sufficient rights to acquire a Strategic Efficient District Heating and Cooling Network in specific circumstances that might arise prior to the expiration of the 30-year timeframe set out in Head 20.

The Head also provides that the State may acquire a Strategic Efficient District Heating and Cooling Network if it is sold within the 30-year period to another entity that is not a state authority.

HEAD 22 – TRANSFER OF RIGHTS FOLLOWING STATE ACQUISITION

Provides that:

1. Following acquisition of a Strategic Efficient District Heating and Cooling Network under Head 20, any rights in respect of licencing, permitting or access to private lands obtained by a Heat Network Developer, Operator or Supplier for the purposes of operating, maintaining, expanding or otherwise accessing the Strategic Efficient District Heating and Cooling Network shall, with the acquisition of the Strategic Efficient District Heating and Cooling Network, transfer to the State authority referenced in Head 20.
2. Subsection (1) shall not empower the State authority referenced in Head 20 to acquire any land without the consent and agreement of the landowner.
3. Any debt or incumbrances will remain the liability of the Developer and will not transfer to the State.

Explanatory Note:

This Head provides that any rights of access to land, or other right such as electricity supply contracts, also transfer to the Heat Network Authority. These provisions are necessary to ensure that the Heat Network Authority has ongoing access to the infrastructure for the purposes of operating, maintaining and, where required, expanding the network (subject to acquiring the usual permits and licences).

The Head also provides that the Heat Network Authority shall not be in a position to interfere with the land ownership rights of a property owner unless, where it may be necessary for the Heat Network Authority to purchase property, that the landowner consents and agrees to the acquisition of the land.

It is intended that any debt or incumbrances will remain the liability of the Developer and will not transfer to the State.

PART 5 – CONSTRUCTION AND OPERATION OF HEAT NETWORKS

HEAD 23 –EFFICIENT DISTRICT HEATING AND COOLING

Provide that:

- (1) All District Heat Networks entering the Planning process, after the commencement of this Act, shall be required to be Efficient District Heating and Cooling networks.
- (2) Heat Networks may, during a planned period of maintenance, upgrading or developing a heat network or heat network assets, or during an unexpected and short-term cessation of heat production, use a non-renewable energy source.
- (3) Existing Heat Networks shall, after the commencement of this Act, when undertaking upgrades to a Heat Network, be required to meet the definition of Efficient District Heating and Cooling, where economically and technically feasible.

Explanatory Note:

This Head sets out the requirement for all Heat Networks in planning or development to be Efficient District Heating and Cooling. The definition to Efficient District Heating and Cooling in these Heads is linked to the Energy Efficiency Directive. This Head also requires that all existing Heat Networks which, after the enactment of this Bill, are being upgraded shall be required to convert to Efficient District Heating and Cooling, where technically and economically feasible.

The intent of this Head is to prevent the development of fossil fuel heat sources for heat networks which would limit the capacity of the built environment sector to stay within its Sectoral Emissions Ceilings.

HEAD 24 – OBLIGATIONS OF HEAT NETWORK DEVELOPERS

Provide that:

- (1) A Heat Network Developer shall obtain and comply with any other licences or permits relevant and required in relation to Heat Networks, including requisite planning permission.
- (2) For the purposes of this Bill, a licence obtained under section 254 of the Act of 2000 is not an appropriate licence for the construction of Heat Networks.

Explanatory Note:

Heat Network Developers may undertake independent construction of Heat Networks, once they have obtained a licence from the Heat Network Regulator for this purpose and have separately obtained other relevant consents for development. Fulfilling the necessary criteria and licence conditions will ensure that the Developers are deemed fit to undertake this work. This Head provides that the network developers will fulfil obligations such as obtaining relevant licences including a Heat Network licence and consents prior to commencing works to build a Heat Network.

For purposes of consistency in applications for planning permission applications for the development of heat networks, this Head clarifies that Section 254 of the Act of 2000 is not considered to be an appropriate licence for the purposes of the development of Heat Network. It is considered that the powers afforded to local authorities in section 182 of the Act of 2000 permit the installation of district heating networks and no amendment is considered necessary to that section.

HEAD 25 – LOCAL AUTHORITY INTERESTS

Provide that:

1. A local authority may:
 - a. Acquire, or otherwise secure any heat (in any form) for the purposes of district heating;
 - b. Operate, maintain and improve Heat Networks and/or Heat Network Assets;
 - c. Distribute, transmit and supply heat;
 - d. Sell or otherwise dispose of heat to third parties;
 - e. Charge for any supply or disposal of heat.
2. A local authority may enter into contracts and any such other arrangements as the local authority considers necessary, expedient or desirable either alone or jointly with another local authority or state authority or any other person for the purposes or, or in connection with, subsection (1).
3. A local authority may, in accordance with section 66(4)(i) of the Local Government Act, enter into such contracts and make such other arrangements for the purposes of, or in connection with, subsection (1).
4. A local authority may, with the consent of the Minister Environment, Climate and Communications –
 - a. Advance from time-to-time moneys by way of loan to a company referred to in subsection (3); and
 - b. Give assurances, guarantees or other undertakings to a third party in relation to the performance by a company referred to in subsection (3) of obligations being assumed by such company.
5. Any contracts or arrangements for the purposes of this section shall be upon and subject to such terms and conditions as the local authority considers appropriate.
6. Functions conferred on a local authority by this section are in addition to, and not substitution for, any other function of such local authority.

Explanatory Note:

The Head provides the vires required by Local Authorities to meaningfully participate in the district heating sector, where a local authority takes the decision to become active in that sector.

Local authority engagement has identified the need for these Heads of Bill to ensure suitable provisions to facilitate successful implementation of projects. This Head is intended to provide local authorities with the powers to acquire or sell heat, construct, develop, operate maintain and improve heat networks, distribute heat and enter into collaborative agreements with other local authorities.

Consideration will be required during drafting stage as to whether ‘grandfathering’ provisions are required for the purposes of any contacts signed in advance of the enactment of a Heat Bill.

HEAD 26 – OPENING OF PUBLIC ROAD FOR ESTABLISHMENT OF UNDERGROUND HEAT NETWORK INFRASTRUCTURE

Provide that:

- (1) A Heat Network Developer or Heat Network Operator shall not commence or carry out or cause to be commenced or carried out any roadworks on a Public Road unless they –
 - (a) Hold a Heat Network licence, and
 - (b) Have obtained the prior written consent of –
 - (i) In the case of a national road, the National Roads Authority, or
 - (ii) In the case of any regional or local road, the road authority, in whose functional area the Heat Network Operator proposes to carry out the roadworks.
- (2) A Heat Network Developer or Heat Network Operator or a person engaged by the network operator who contravenes subsection (1) commits an offence and is liable—
 - (a) on summary conviction, to a fine not exceeding €5,000, oron conviction on indictment, to a fine not exceeding €1,000,000.
- (3) Subject to this section and any regulations under section 56(2) of the Communications Regulation Act 2002—
 - (a) the NRA, following consultation, not exceeding 21 days, with the road authority in whose functional area the national road exists, may grant consent to a Heat Network Developer or Heat Network Operator, upon application to it by the operator, to carry out roadworks on a national road, or
 - (b) a road authority may grant consent to a Heat Network Developer or Heat Network Operator, upon application to it by the operator, to carry out roadworks on a regional road or local road in the functional area of the road authority, for the purposes of—
 - (i) establishing underground heat networks,
 - (ii) extending underground heat networks to parts of the road under which a heat network has not previously been placed, or
 - (iii) maintaining, repairing or replacing, or extending, or removing underground heat networks infrastructure.
- (4) Subject to this section—
 - (a) where an application is made to an authority by a Heat Network Developer or Heat Network Operator under this section to carry out roadworks and the authority fails to make a decision in respect of the application within the period of 4 months commencing on the date of receipt of the application, consent is deemed to be granted to the network operator on the day following the expiration of that period of 4 months to carry out the roadworks, and
 - (b) where the authority has requested additional information from the applicant regarding the application and the authority fails to make a decision in respect of the application within the period of 4 months from the date on which it receives the applicant's response to the request, consent shall be deemed to have been

- granted on the day following the expiration of that period of 4 months to carry out the roadworks.
- (c) A deemed decision to grant consent under this section shall be subject to the conditions that—
- (i) in advance of the commencement of those roadworks the Heat Network Developer or Heat Network Operator concerned informs the authority concerned, and
 - (ii) the network operator concerned complies with any conditions the authority concerned may decide while the roadworks are in progress or completed.
- (d) This section does not apply in respect of an application where—
- (i) within 4 months of receipt of the application, an authority serves notice on the applicant that for exceptional reasons stated in the notice it shall not decide on the application within a period of 4 months commencing on the date of receipt of the application,
 - (ii) the applicant is not in compliance with any other requirement imposed under law, or
 - (iii) the applicant gives to the authority in writing his or her consent, for stated reasons, to the extension of the period concerned for making a decision on the application, in which case the period for making the decision shall be extended for the period consented to by the applicant.
- (5) A consent may contain conditions. Any conditions contained in a consent—
- (a) shall not discriminate unfairly between network operators, and
 - (b) shall be consistent with the need for the authority to carry out its functions under this Part and under the Roads Acts 1993 to 2007 and the Road Traffic Acts 1961 to 2007.
- (6) Where an authority proposes to grant consent to a network operator under subsection (3) or a consent is granted under subsection (4) or (6), the consent may contain conditions which, without prejudice to any other conditions it proposes to impose on the network operator, may—
- (a) provide that Heat Network Developers or Heat Network Operators meet any losses, liabilities and costs suffered or incurred by the authority, under contractual arrangements with a third party, where such losses, liabilities and costs arise as a result of any act undertaken by the Heat Network Developer or Heat Network Operator, in relation to heat networks, and
 - (b) provide that the authority may have representatives present at work sites for the purpose of determining compliance with any conditions imposed in connection with any act undertaken by the Heat Network Developer or Heat Network Operator, under a consent issued under sections (3), (4) or (6), in relation to heat network infrastructure.
- (7) An authority granting consent shall notify the network operator, in writing, of the reason for any conditions contained in the consent.
- (8) The NRA, in the case of a national road, following consultation, not exceeding 21 days, with a road authority in whose functional area the national road exists, or a road authority, in the case of regional and local roads in its functional area, may, subject to

any regulations under section 56(2) of the Communications Regulation Act, 2002, impose charges on Heat Network Developer or Heat Network Operator—

- (a) for the grant of consents to cover the administrative costs, including costs involved in monitoring compliance with consents, incurred by the road authority under this section, and
 - (b) for reasonable costs it may incur in making good long-term damage to a road as a result of road openings carried out by the Heat Network Developer or Heat Network Operator.
- (9) When considering an application for a consent, a road authority shall have regard to—
- (a) the existing and potential use and availability of space under the surface of the road concerned, including—
 - i. the course and depth of heat network infrastructure to be laid by the applicant,
 - ii. the existence of previously installed heat network infrastructure in addition to those which are immediately required by any Heat Network Developer or Heat Network Operator, and
 - iii. the existence of space for other underground infrastructure in addition to that which is reasonably required by any Heat Network Developer or Heat Network Operator,
 - (b) the safe and efficient operation of the public road,
 - (c) road reconstruction, repair and maintenance costs that may arise as a consequence of the application,
 - (d) the protection of the environment and of amenities including residential amenities,
 - (e) the manner and timing of the reinstatement of the road,
 - (f) any scheme adopted under subsection (11), and
any contractual arrangements which an authority may have with a third party.
- (10) Where the holder of a consent fails to comply with any condition attached to a consent, the road authority which granted the consent may withdraw the consent.
- (11) Where a road authority proposes—
- (a) to refuse to grant consent,
 - (b) to grant consent subject to conditions, or
 - (c) to withdraw a consent granted by it,

the authority shall notify the Heat Network Developer or Heat Network Operator concerned in writing of the proposal and shall include in the notification a statement of the reasons for the proposal and of the right of the Heat Network Operator to make representations to the National Road Authority.

- (12) A Heat Network Developer or Heat Network Operator may, within 21 days of the receipt by the Heat Network Operator or Heat Network Developer of a notification under subsection (12), make representations to the road authority in relation to the proposal.

(13) Where an authority—

- (a) after consideration of any representations made to it by a network operator under subsection (13), or
- (b) does not receive representations from the network operator concerned within the period specified in subsection (13), decides—

- (i) to refuse to grant consent,
- (ii) to grant consent subject to conditions, or
- (i) to withdraw its consent,

the authority shall, not more than 21 days after the expiration of the period specified in subsection (13), notify the Heat Network Developer or Heat Network Operator in writing of its decision and shall include in the notification a statement of the reasons for the decision and of the right of the network operator to appeal the decision under subsection (15).

(14) A Heat Network Developer or Heat Network Operator may, within 28 days of the receipt by the Heat Network Developer or Heat Network Operator of a notification, appeal to the High Court against the decision concerned and the Court may—

- (a) confirm the decision,
- (b) amend the decision, or
- (c) direct the road authority to grant the consent or refrain from withdrawing consent, as the case may be.

15) A Heat Network Developer or Heat Network Operator shall be responsible for all costs incurred in the reinstatement of a road which the operator has opened for the purpose of –

- (a) the establishment of underground heat network infrastructure, or maintenance, repair, replacement or the addition or removal of underground
- (b) maintenance, repair, replacement or the addition of underground heat network infrastructure

to a standard satisfactory to the authority concerned.

16) A network operator shall, on a request being made by an authority, provide among other things —

- (c) such information as the authority may require in relation to the utilisation of heat network infrastructure owned or operated by the operator, and
- (d) such access to underground heat network infrastructure owned or operated by the Heat Network Developer or Heat Network Operator, as may be necessary to enable the authority to exercise its functions under this section.

17) An authority may apply to the High Court for an order—

- (a) by way of injunction, to prohibit any non-compliance, or
- (b) by way of *mandamus*, to direct any compliance, with a requirement of this section or the conditions of consent. The Court may grant such order as it sees fit.

18) This section is without prejudice to section 101D (inserted by the Dublin Transport Authority (Dissolution) Act 1987) of the Road Traffic Act 1961 (which relates to directions given by local authorities to persons carrying out roadworks).

19) A summary offence under subsection (2) may be prosecuted by—

- (a) where the offence relates to a national road, the NRA or the road authority in whose functional area the offence is committed, or
- (b) where the offence relates to a regional or local road, the road authority within whose functional area the offence is committed.

Explanatory Note:

As heat networks will be installed underground, Head Network Developers and Operators will require permission to open roads to lay the necessary heat network infrastructure. This Head is therefore based on Section 53 of the Communications Regulation Act, 2002 and the provisions contained therein in relation to the opening of public roads for the purposes of establishing and extending underground electronic communications and associated works. Subsections 11, 12, 13 and 20 of section 53 the Communications Regulation Act, 2002 were not considered to be relevant in the context of heat networks specifically and were not incorporated into this Head.

The provisions in this Head have been adapted to reflect the installation of heat networks, rather than electronic communications infrastructure.

HEAD 27 - COST APPORTIONMENT FOR HEAT NETWORKS INFRASTRUCTURE CONSEQUENTIAL TO ROAD IMPROVEMENTS

Provide that:

- (1) Where a road authority undertakes work for the purposes of improving a public road, it shall pay to a Heat Network Developer or Heat Network Operator all reasonable costs incurred by the Heat Network Developer or Heat Network Operator in the relocation (except in relation to the relocation of pipes) of its Heat Network Assets and any associated physical infrastructure necessitated by and directly attributable to that work.
- (2) Where Heat Network Assets are required to be moved arising from any works undertaken by a road authority to improve the road, then—
 - a. the authority shall cover the costs of relocating the pipes, necessitated and directly attributable to that work, and
 - b. the National Road Authority shall provide reasonable notice of the roadworks to the Heat Network Operator concerned.
- (3) Where a Heat Network Asset and any associated physical infrastructure is replaced or improved by a Heat Network Developer or Heat Network Operator in the course of relocation due to road improvement, the road authority concerned shall pay only the costs directly attributable to work undertaken to a Heat Network Asset and any associated physical infrastructure as a result of roadworks which would have been incurred if the Heat Network Asset and any associated physical infrastructure existing immediately before the road improvement had been relocated.
- (4) A Heat Network Developer or Heat Network Operator shall be responsible to the National Road Authority for any costs incurred by the National Road Authority where the Heat Network Developer or Heat Network Operator fails to carry out the relocation of its Heat Networks Asset in a safe, expeditious and efficient manner.
- (5) Where the National Road Authority, on an application to it by a Heat Network Developer or Heat Network Operator to carry out roadworks over, along, on or under a public road, gives the Heat Network Developer or Heat Network Operator notice that the road is due to be improved by the National Road Authority within the period of 2 years of the date from which the Heat Network Developer or Heat Network Operator intends to carry out the works, the National Road Authority shall not be responsible for the cost of relocating Heat Network Asset or anything connected with the works where the road improvement proceeds within that period.
- (6) Where a dispute or difference arises between a Heat Network Developer or Heat Network Operator and the National Road Authority in respect of the cost of the relocation of Heat Network Asset, the dispute or difference shall be determined by agreed conciliation procedures between both parties or, in default of such agreement, by arbitration under the Arbitration Acts 1954 to 1998.

Explanatory Note:

This Head provides for circumstances whereby Heat Network infrastructure is affected by road repairs undertaken by or on behalf of the road authority.

This Head has been modelled on as section 55 of the Communications Regulation Act, 2002 and the provisions contained therein which relate to the opening of public roads. Subsections 2(b) and (3) of section 55 of the Communications Regulation Act, 2002 do not appear relevant in the context of heat networks and have been omitted from this Head.

PART 6 – SUPPLIER OF LAST RESORT

HEAD 28 - SUPPLIER OF LAST RESORT

Provide that:

(1) For the purposes of this Head:

“Security of supply incident” means a situation where a Heat Network Operator or Heat Network Supplier ceases to trade or fails to supply heat to those final customers in accordance with its Heat Networks licence where there is an ongoing and unremedied interruption to supply.

“Supplier failure” means where the supplier has failed to maintain the minimum supply level as per the condition of their licence.

- (2) A Heat Network Operator or Heat Network Supplier experiencing or likely to experience a security of supply or supplier failure incident shall inform the Commission immediately on becoming aware of the incident or of the likelihood of a security of supply incident.
- (3) The Commission shall report all security of supply or supplier failure incidents to the Minister.
- (4) Where Heat Network Operator or Heat Network Supplier experiences a security of supply or supplier failure incident, in contravention with its Heat Networks licence, the Commission shall revoke the licence of the Heat Network Operator or Heat Network Supplier.
- (5) In the event of a security of supply or supplier failure incident, the Heat Network Operator or Heat Network Supplier shall abide by the conditions set out by the Commission in the Heat Network licence to provide for a step-in Supplier of Last Resort.
- (6) In the event of security of supply or supplier failure incident relating to a Heat Network Operator or Heat Network Supplier, the Commission shall appoint the identified Supplier of Last Resort as the alternative Heat Network Operator or Heat Network Supplier to operate and/or supply heat to the Heat Network.
- (7) A Supplier of Last Resort shall immediately supply heat to final customers of another licensed Heat Network Operator or Heat Network Supplier when appointed by the Commission to act as an alternative Heat Network Operator or Heat Network Supplier to supply heat via the Heat Network.
- (8) The Commission shall specify in an appointment under subsection (6)—
 - (a) the terms and conditions under which that supplier of last resort shall supply heat to a final customer, including those in relation to—
 - i. duration of supply,
 - ii. termination of supply, and
 - iii. price,
 - (b) the method for calculating the charges for the supply of heat to a final customer,
 - (c) any other matters which the Commission considers necessary for the purpose of the supply of heat to a final customer by that supplier of last resort,
 - (d) and that the supplier of last resort shall comply with the matters so specified.
- (9) Where a final customer is supplied with heat by a Supplier of Last Resort, a contract for the supply of heat shall be deemed to exist between the final customer and the Supplier of Last Resort from the date upon which the supply of heat commenced to the final customer by the

Supplier of Last Resort and such contract shall be subject to terms and conditions specified by the Commission in designating that Supplier of Last Resort .

Explanatory Note:

Customers who source their heat through a Heat Network must have certainty that the network will remain operational and capable of supplying heat to them. For this reason, security of supply is an important part of consumer protection.

This Head provides for measures to ensure the continuity of supply for heat and hot water to customers in the event that a Heat Network Operator or Heat Network Supplier ceases to operate or otherwise fails to provide heat on an ongoing and unremedied basis.

In accordance with the mandatory condition of a Heat Networks licence, a Heat Network Operator or Heat Network Supplier must ensure minimum standards relating to security of supply. A licence condition will require licence holders to have identified a step-in 3rd party, who will operate and/or supply a heat network to final customers in the event of an unexpected and prolonged interruption to supply. The intent for such a third party is to ensure the continued supply of heat to customers on heat networks, so that they are not left in the vulnerable situation of having no option to secure heat for their property in the event that their initial operator or supplier can no longer provide that service.

There is a similar provision in section 19 of the Energy (Miscellaneous Provisions) Act 2006 inserting section 21A of the Gas (Interim) (Regulation) Act 2002, although a key difference is that Act provides for the Commission to invite expressions of interest for suppliers to act as a supplier of last resort. However, on the basis that heat networks are unlikely, in the short term, be interconnected and the market is not yet developed to a scale to which a wide range of heat suppliers exist, it is not considered feasible to invite expressions of interest for a single licenced supplier to act as Supplier of Last Resort for a number of Heat Networks. This Head, therefore, puts on onus on Heat Network Operators and Suppliers to identify a Supplier of Last Resort for their network.

PART 7 – DEMAND AND SUPPLY HEATING AND COOLING

HEAD 29 - MANDATE ON PUBLIC SECTOR BUILDINGS

Provide that:

- (1) Buildings owned by State authorities shall connect to available efficient district heating and cooling networks, where technically possible and economically cost effective, and where the connection will not contravene other requirements, such as an obligation to maintain a building which is a protected structure.
- (2) Guiding principles for the methodology, assumptions and time horizon for the economic analysis required under (1) shall be set out by the Heat Network Authority.
- (3) The Heat Network Authority shall assist state authorities on assessing the feasibility of a public building connecting to an efficient district heating and cooling network.

Explanatory Note:

In line with the recommendations of the District Heating Steering Group Report that legislation should mandate that public sector buildings connect to available district heating networks (where technically and economically feasible), this Head has been drafted to put that obligation on such bodies. This mandate will apply to publicly owned buildings only.

This Head will build on the public sector climate action strategy 2023-2025 by obligating the State to connect public sector buildings to efficient district heating and cooling networks and, more broadly will continue towards the requirement under Article 5 of the Energy Efficiency Directive 2023 to ensure the reduction in final energy consumption of public bodies by 1.9% per year when compared to 2021.

A methodology shall be developed through consultation to determine the technical and economic feasibility criteria and process for determination of mandatory connections.

If connecting to a Heat Network, the Head provides that building owners ensure that other requirements are complied with, for instance where a building is a protected structure.

It is not yet possible to capture the guiding principles to be set out by the Heat Network Authority, However, data on existing Heat Networks is being collated and will provide for an informed set of principles to be developed.

PART 8 – AMENDMENT TO THE MULTI-UNIT DEVELOPMENT ACT 2011

HEAD 30 - AMENDMENT TO THE MULTI-UNIT DEVELOPMENT ACT 2011 SECTION 32

Provide that:

- (1) The Multi Unit Development Act 2011 is amended by the insertion of the following after section 32:

Restriction on entering into certain contracts related to efficient district heating and cooling

The amendment will be commenced by the Minister for Justice with the agreement of the Minister for the Environment, Climate and Communications and the Minister for Housing, Local Government and Heritage.

32A.

- (1) Section 32 shall not apply in the case of a contract between a management company and a supplier/operator of an efficient district heating and cooling network.
- (2) An owners' management company may, after commencement of this section, enter into a contract for the supply of district heating which is expressed to run for a period up to 15 years from the date the contract is entered into by the owners' management company.
- (3) An owners' management company shall not, after commencement of this section, enter into a contract for the supply of district heating which provides for a penalty to be imposed on or damages to be paid by the owners' management company if the contract is terminated by it after a period of 15 years from the date the contract is entered into by the owners' management company.

Explanatory Note:

This Head will introduce a change to the current MUD Act 2011 which currently specifies that a management company cannot enter a contract for goods or services in excess of three years.

Investment in efficient district heating and cooling network infrastructure requires longer contract periods to establish returns on investment and the MUD Act 2011 currently in effect restricts investor appetite for the purposes of installation of heat networks.

This amendment to the MUD Act introduces an extended period (15 years) in which a management company could enter into a contract for the purposes of heat networks.