

Heat Networks (Scotland) Bill

[As Amended at Stage 2]

Supplementary Financial Memorandum

Introduction

1. As required under Rule 9.7.8B of the Parliament's Standing Orders, this Supplementary Financial Memorandum is published to accompany the Heat Networks (Scotland) Bill, as amended at Stage 2.
2. The following other accompanying documents are published separately:
 - Revised Explanatory Notes (SP Bill 64A-EN);
 - Supplementary Delegated Powers Memorandum (SP Bill 64A-PM);
3. This Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the amendments to the Heat Networks (Scotland) Bill ("the Bill") at Stage 2. It does not form part of the Bill and has not been endorsed by the Parliament. It should be read in conjunction with the original Financial Memorandum, published to accompany the Bill as introduced on 2 March 2020. It does not form part of the Bill and has not been endorsed by the Parliament.
4. Where new provisions or substantial changes have been made to the Bill at Stage 2, the implications of this have been highlighted. In particular, the following changes have been described in more detail:

- Part 2 – heat network consents – local authorities as “consenting authority”
- Part 2 – heat network consents – community engagement report
- Part 6 – powers of licence holders – power to carry out road work rights
- Part 6 – powers of licence holders – registration of network wayleave rights
- Part 7a – heat networks delivery plan

5. Amendments at Stage 2 insert new provision imposing a duty on the Scottish Ministers to meet targets relating to the combined supply of thermal energy by heat networks in Scotland. The provisions do not, on their own, give rise to any new or significant costs. The Scottish Ministers would need to use other levers in order to meet these targets. The Heat Network Delivery Plan will provide the pathway on how the targets are going to be delivered and, as part of that, will also consider any potential indirect costs.

6. Furthermore, it is likely that the amendments in relation to the appeals and associated processes in relation to revocation of heat network licence, consent, permits are going to have some cost implications, however these are not possible to quantify without detail that is to be developed in the subsequent regulations and further information about possible amount of appeals from the decisions made under this Bill.

7. Amendments agreed at Stage 2 which are not covered in this Supplementary Financial Memorandum are considered not to have any substantial cost implications. All of the costs outlined in this Supplementary Financial Memorandum are revenue in nature.

8. In order to show clearly the cost implications of the amendments made to the Bill, no changes have been made to the figures where the provisions themselves have not changed, and staff costs are given at 2019 rates throughout to provide consistency.

Part 2 – Heat network consents

Context

9. The Economy, Energy and Fair Work Committee believed the division of responsibilities in respect of Heat Network Consents should be rebalanced, with its Stage 1 Report noting that:

“Comparing the degree of decentralisation of powers within the Bill, the Minister said the aim here was not radically different from the Danish approach; and – informed by the heat networks working group – that a balance had been struck. There were local authorities that perhaps lacked the resources to manage the consents process; data from the ONS had shown heat networks were not evenly distributed across Scotland; and the Bill was seeking to maximise economies of scale. In Norway, we were told, a more centrally-led approach had evolved to provide more responsibility to municipalities. The Committee notes the balance between the national and the local as arrived at in the Bill. We note, however, the evidence from the Danish Energy Agency that the municipalities govern the consents process and, together with consumer co-operatives, own the pipe network. We believe that it is desirable for the balance of powers between Ministers and local government to be modified over time and that the Bill should make provision for this.”

10. The Scottish Government accepted this recommendation and in December 2020, the Minister for Energy, Connectivity and the Islands wrote to Councillor Steven Heddle (COSLA Spokesperson for Environment and Economy) to ensure that local government leadership was aware of these changes and to invite any views prior to Stage 2.

11. Stage 2 amendments proceeded to create the concept of a “consenting authority” that is responsible for the award of Heat Network Consents in its area. The Scottish Ministers act as the “consenting authority”, unless the relevant local authority has been designated as the “consenting authority” in its area. Before doing so, the Scottish Ministers are required to consult that local authority, as well as any other persons as they consider appropriate.

Community Engagement Reports

12. Another change to the Part 2 of the Bill is the introduction of the requirement for “Community Engagement Reports” that must be submitted as part of a relevant heat network consent applications. A requirement on developers to undertake community engagement can help to ensure that new networks are future-proofed to avoid consumer detriment by considering the circumstances of the local community, and to make any mitigations that may be appropriate.

13. In January 2020, Citizens Advice Scotland (CAS) published a study into conducting effective community engagement when developing major new projects. This work includes a detailed methodology and framework for community engagement.

Local authority as a “Consent Authority”

Analysis of financial implications

14. The Financial Memorandum that was published alongside of the Bill at introduction outlined financial implications of the Scottish Ministers administering the heat network consents process that was introduced by the Bill.

15. The introduction of “consent authorities” does not alter the financial implications associated with the Scottish Ministers holding the functions. However, the designation of a local authority as a “consent authority” would result in new costs associated with carrying out these functions, as well as the opportunity to raise income associated with collection of the application fees.

16. The analysis of these financial implications was developed on the basis of the evidence gathered in the original Financial Memorandum, but also supplemented by information from the Scottish Government’s Planning and Architecture Department.

17. The heat network consenting process will involve a number of different costs to the consenting authority, primarily stemming from the assessment time taken to review individual applications based on set criteria, but would also include the management of the consenting process and potential requirements for public hearings to assess individual developments.

18. In order to determine the financial implications of designating a local authority as a “consent authority”, a number of assumptions were made.

19. Firstly, in relation to the development of the heat network consenting application and determination process it was assumed that each “consent authority” will follow the same process that was designed as part of initial development of the regulations. The costs associated with the development of that process were outlined in the Financial Memorandum. Consistent processes will ensure clarity for prospective applicants and consistency across Scotland should the “consent authority” functions be exercised by individual local authorities.

20. Secondly, it was assumed that fees will be maintained at the same level, regardless of whether the heat network consent was issued by a “consent authority” at national or local level i.e. by Scottish Ministers or a local authority. In the Financial Memorandum, it was recognised that fees and costs structure will vary greatly depending on the proposed projects. Since the Scottish Government’s Energy Consent Unit provides the most appropriate comparable case available, as set out in the Financial Memorandum, the range of costs per Heat Network Consent assessment is estimated to be £6,500 - £300,000 in 2019 prices (see Table 1). Those costs were estimated on the basis of cost reflectivity based on the fees that are currently set for applications to construct, extend or operate a generating station as well as fees to install or keep installed an electric line by Energy Consents Unit.

21. However, it is likely that the Heat Network Consent fee will not recover all of the costs associated with the processing of the applications, as is the case in the Energy Consents Unit. This will be explored further in the sections below as it will have an implication on funding for the “consent authority”.

Table 1 - Range of estimated one-off Heat Network Consent Application Assessment Costs in 2019 prices

Cost range	Low	Medium	High
Cost (£) 2019	6,500	125,000	300,000

Costs on the Scottish Administration

22. The costs to the Scottish Administration that will differ from those outlined in the Financial Memorandum, will be largely dependent on the number of local authorities that will decide to take on the function of the “consent authority”.

23. During Stage 2 debate, the Minister for Energy, Connectivity and Islands set out that “in line with the resourcing strategy that is outlined in the financial memorandum, the Scottish Government remains committed to working with local government to ensure that adequate resourcing is in place”. Additionally, as outlined in our response to the Stage 1 Report, the Scottish Government will provide local authorities with the funding, and other technical support, needed to carry out any duty placed on them under this Bill. As such, the Scottish Administration would need to cover some initial costs of transferring the functions of “consent authority” to a local authority/local authorities.

24. Amendments to the Bill allow the Scottish Ministers to streamline the application process for Heat Network Consent and Planning Permission where the local authority are the consent authority and the planning authority. Streamlining, would most likely involve application for both planning permission and heat network consent under one application process. If that was the case, it is likely that in these instances “consent authorities” would be working closely with Planning Authorities. In this scenario it is likely that some or all of the resource would be shared between the local Planning Authorities and “consent authority”.

25. As set out in the original Financial Memorandum, to identify the potential number of the heat network consent applications we can expect, KPMG estimated different deployment scenarios for Scotland based on the current 9% proportion of UK heat networks, as a whole, based within Scotland, as indicated by BEIS experimental heat network statistics.

26. Based on the deployment scenarios developed by KPMG (developed for the purposes of the original Financial Memorandum), it was estimated that approximately 30 larger heat network schemes would require delivery every year to meet the Scottish Government’s deployment trajectory. In a low deployment scenario, approximately five larger heat network schemes

would be delivered, and in the medium deployment scenario, approximately 21 would be delivered.

27. Since the heat networks are local by nature and may not be suitable for all areas, it is not possible to estimate exactly how many applications can be expected per local authority should individual local authorities take on a function of the “consent authority”. Local authorities that have more urban areas that are more suitable for heat networks may expect more applications, whereas those with majority of rural areas may expect less applications. Based on that and assumptions made in the original Financial Memorandum on number of applications on a national level, it was assumed that on average a local authority that decided to take on a function of “consent authority”, it could expect up to 1 application per year.

Funding Gap

28. The original Financial Memorandum assumed that the costs associated with staff in a heat network consent unit would not be recovered by the income from fees. The main reason for that assumption is that in the initial years of heat network market growth, some of the networks may be exempted from a Heat Network Consent fee to help the market to grow. Overhead costs were not included in assumptions as they were expected to be shared with the Energy Consents Unit.

29. Heat network consents as a regulatory measure will be designed to be cost reflective, which means that fees charged by any “consent authority” are going to cover the costs of processing the applications. However, it is expected that initially it will be difficult to achieve this before the processes are learned and resources are optimised. In the original Financial Memorandum, the funding gap associated with staff costs was between 18% at low end of the range and 9% for medium and high. That was associated with the efficiencies associated with the processing of larger number of applications.

30. To identify what proportion of the fee will be able to cover the processing of the applications at a local level, evidence was sought from the Action Report¹ from Heads of Planning Scotland on the Recent Cipfa/Hops Survey on Costing the Planning Service in Scotland. The report looked at the costs that included staff time and overheads, such as premises, ICT, transport, postage, adverts and external advice. The study

¹ [hops-costing-the-planning-service-action-report-220219.pdf \(wordpress.com\)](#)

findings were intended to assist the Minister for Local Government, Housing and Planning and the Scottish Government in their understanding of the totality of planning costs for providing planning services and to further inform the ongoing discussions at the High-Level Group on Planning Performance. They offer a good basis from which to understand the nature and relationship of planning costs and increased performance, and the potential for increased application fees and charges to achieve cost recovery.

31. The Action Report states that “the key headline figures clearly show the significant funding gaps between the fee income currently received and the actual costs of running the planning service. In terms of core application processing costs, it is 34% but in terms of the planning service the gap in income is 67%”. It noted however, that the work is ongoing to ensure that funding gap is being closed through increase of the planning fees. This work was paused due to the COVID-19 pandemic.

Total Costs to the Scottish Administration

32. These figures and in particular the one associated with the core application processing costs with funding gap at 34% were deemed as a suitable assumption to be made in relation to terms of heat network consents funding gap when the local authority is a consenting authority.

33. Assuming that with an average cost of an application for a heat network consent (that would include the planning permission) is £125,000 that would be fully recovered by the local authority and the funding gap has been set at 34%, the cost of the processing the heat network consent application at a local level can be estimated to be £189,394. Therefore, the total contribution from the Scottish Administration per each application submitted to the local authority acting as a “consent authority” can be estimated at £64,394.

34. In order to estimate the total cost to the Scottish Administration over 10 years, different scenarios were developed to look at the uptake of the “consent authority” function. In a “low” scenario, it was assumed that 2 local authorities would choose to become “consent authority”, followed by 16 and 32 in “medium” and “high” scenarios respectively. In all of the scenarios, it was assumed that the “consent authority” would process one application per year. In order to calculate the costs in nominal prices the assumed rate of inflation was 2%.

35. Total costs for the Scottish Administration over 10 years in nominal prices to cover the funding gap that would not be recovered from the heat network consenting fees was estimated to be between £1,195,328 in the “low” scenario, £9,562,627 in the “medium” scenario, and £19,125,254 in the “high” scenario.

36. There are high margins of uncertainty due to the number of assumptions made in calculations of the estimates in particular to fees associated with the heat network consent applications; funding gap and costs of the resourcing the function in the local authority. Further work will be undertaken on cost analysis of the designation of local authorities as “consent authorities” during the development of the heat network consent processes and their administration. It is also not certain whether the local authorities would wish to take on the function of “consent authority” immediately once the consenting system is operational. If the function of “consent authority” was transferred to local authorities individually or entirely at a later date it would shift the distribution of costs across a 10-year period.

Table 2 - Overview of Heat Network Consent Costs with local authorities as “consent authority” over 10 years in nominal prices (assumed 2% inflation)

Year / Nominal Cost Range in (£)	Item	Low	Medium	High
Year 1 (2021/2022)	Consents Process Set up	Covered in original Financial Memorandum		
Year 2 (2022/2023)	Consents Process Set up			
Year 3 (2023/2024)	LA Expenditure Costs	139,267	1,114,140	2,228,280
	Funding from Scottish Administration	- 139,267	- 1,114,140	- 2,228,280
	LA Application Fee Income	- 270,343	- 2,162,742	- 4,325,484
	LA Application Processing Costs	270,342.74	2,162,741.90	4,325,483.81

Year 4 (2024/2025)	LA Expenditure Costs	142,053	1,136,423	2,272,845
	Funding from Scottish Administration	- 142,053	- 1,136,423	- 2,272,845
	LA Application Fee Income	- 275,750	- 2,205,997	- 4,411,993
	LA Application Processing Costs	275,750	2,205,997	4,411,993
Year 5 (2025/2026)	LA Expenditure Costs	144,894	1,159,151	2,318,302
	Funding from Scottish Administration	- 144,894	- 1,159,151	- 2,318,302
	LA Application Fee Income	- 281,265	- 2,250,117	- 4,500,233
	LA Application Processing Costs	281,265	2,250,117	4,500,233
Year 6 (2026/2027)	LA Expenditure Costs	147,792	1,182,334	2,364,668
	Funding from Scottish Administration	- 147,792	- 1,182,334	- 2,364,668
	LA Application Fee Income	- 286,890	- 2,295,119	- 4,590,238
	LA Application Processing Costs	286,890	2,295,119	4,590,238
Year 7 (2027/2028)	LA Expenditure Costs	150,748	1,205,981	2,411,961
	Funding from Scottish Administration	- 150,748	- 1,205,981	- 2,411,961
	LA Application Fee Income	- 292,628	- 2,341,021	- 4,682,043
	LA Application Processing Costs	292,628	2,341,021	4,682,043
Year 8 (2028/2029)	LA Expenditure Costs	153,763	1,230,100	2,460,201

	Funding from Scottish Administration	- 153,763	- 1,230,100	- 2,460,201
	LA Application Fee Income	- 298,480	- 2,387,842	- 4,775,684
	LA Application Processing Costs	298,480	2,387,842	4,775,684
Year 9 (2029/2030)	LA Expenditure Costs	156,838	1,254,702	2,509,405
	Funding from Scottish Administration	- 156,838	- 1,254,702	- 2,509,405
	LA Application Fee Income	- 304,450	- 2,435,599	- 4,871,197
	LA Application Processing Costs	304,450	2,435,599	4,871,197
Year 10 (2030/2031)	LA Expenditure Costs	159,975	1,279,796	2,559,593
	Funding from Scottish Administration	- 159,975	- 1,279,796	- 2,559,593
	LA Application Fee Income	- 310,539	- 2,484,311	- 4,968,621
	LA Application Processing Costs	310,539	2,484,311	4,968,621
LA Total 10 years		0	0	0
Scottish Administration Total 10 years		1,195,328	9,562,627	19,125,254

Costs on Scottish local authorities

37. As set out in section above, the heat network consent processes will be designed during the first two years following the Bill receiving Royal Assent and local authorities will play a key part in its development. This is to ensure that the processes can be adopted by a local authority should it decide to become a “consent authority” while also maintaining consistency with centrally managed “consent authority” that would stay with the Scottish

Ministers. The main reason for maintaining the alignment is to ensure that heat network developers in Scotland are not experiencing issues or delays which could hinder application process.

38. The main difference between the heat network consent system being managed at a local level as opposed to a national level is the handling of planning permissions. Under heat network consenting managed at the national level by the Scottish Ministers, deemed planning permission is to be awarded as part of the consent. In the event that the local authority takes on the functions of the “consent authority” it would create the possibility of a joint application process for heat network consent and planning permission.

39. Due to that, it is likely that any heat network consenting functions taken by the local authority may be administered by the planning department. Many of the skills and resources available in planning departments will be transferrable to processing of heat network consents. That is why it is likely that some efficiencies may be achieved by joining these functions administratively. Particularly, as it is expected that in some instances the number of heat network consent applications will be low. With the Heat Network Consent Unit available at the Scottish Government, there is also potential to provide assistance or expert advice should such be required in times when larger number applications would be submitted.

40. As set out in the Table 2 above, it is expected that most of the costs associated with taking on functions of the “consent authority” will be recovered by the application fees. However, it is recognised that as with planning processes, there may be a funding gap which will require additional funding. Ultimately, the costs associated with taking on this function will depend on a number of factors, including the circumstances of individual local authorities and the design of the heat network consenting process. That is why the Scottish Government is committed to working with local authorities during its development and provide more detailed estimates of costs before laying subsequent regulations.

41. As indicated in the previous section, financial implications on local authorities will be covered by the Scottish Ministers and therefore it is not expected to bring an additional burden to local authorities as outlined in Table 2.

Costs on other bodies, individuals and businesses

42. Although the heat network consenting would be administered at a local level, it is expected that the costs to other bodies, individuals and businesses would remain similar to ranges indicated in Financial Memorandum. However, since the local authorities will have special powers introduced by the amendment to set the fees, it may be possible for certain deviation from charging system if necessary.

Community engagement reports

43. As indicated above, one of the main changes following Stage 2 is the introduction of a requirement on developers (in certain circumstances) to prepare a community engagement report to be submitted as part of certain applications for heat network consent. The intention is that this can help to ensure that new networks are future-proofed to avoid consumer detriment by considering the circumstances of the local community, and to make any mitigations that may be appropriate. This change will predominantly affect the applicants for the heat network consents as they will have to bear the costs of preparation of the community engagement report.

44. The Bill, as amended, also provides the Scottish Ministers with powers to set out guidance for effective community engagement to ensure that it is done to the highest standard.

Costs on the Scottish administration

45. The main costs on the Scottish Administration are connected to the development of the guidance for preparation of the Community Engagement Report and additional costs connected with reviewing such Reports, as part of the Heat Network Consenting process. The latter costs will form a part of the costs outlined in the section above and in the Financial Memorandum for the process that is administered nationally.

46. In terms of development of the Guidance, it is expected that the Scottish Government will learn from existing good practice and review existing literature such as Engaging Hearts and Minds: A study into

conducting successful engagement for communities and organisations developed by CAS².

Costs on Scottish local authorities

47. Changes to the Bill at Stage 2 provide powers for the Scottish Ministers to designate any local authority as a “consent authority” for its area. Should any local authority become a “consent authority” they will be responsible for considering the community engagement reports received as part of the heat network consent application. The costs associated with that scrutiny will form part of the overall heat network consent application process review as outlined in section above.

48. It is also possible that local authorities may wish to develop a heat network and in these circumstances the costs associated with the development of the community engagement report will be relevant. The estimates of such costs are set out in section below.

Costs on other bodies, individuals and businesses

49. In order to determine the financial implications of this change, key literature³ on effective community engagement was reviewed, however the costs were not outlined in researched documents.

50. In 2018, Heads of Planning Scotland (HOPS) selected 12 Scottish local planning authorities to participate in the Planning Service Costing Project. The activity was supported by the Scottish Government and involved a benchmarking exercise to support information pertaining to development management application cost recovery. CIPFA Heads of Planning Scotland Benchmarking Club 2018 developed an interactive report that sets out the findings of this exercise. From this report we have estimated the a range of costs associated with undertaking consultation per planning application in different categories set out by the report for:

- All dwellings – between £178 and £763;

² [Engaging Hearts and Minds: A study into conducting successful engagement for communities and organisations | Citizens Advice Scotland \(cas.org.uk\)](#)

³ [Not another consultation! | involve.org.uk](#)
[Engaging_Communities_Toolkit.pdf \(westlothian.gov.uk\)](#)
[Engagement.pdf \(communityplanningtoolkit.org\)](#)

- Major non-residential – between £1,405 and £10,525; and
- Local non-residential – between £61 and £889.

51. These costs are however associated with consultation in relation to a planning application that is undertaken by the planning authority. There are many economies of scale that are achieved by implementing long standing processes that could help to bring costs down. However, the figures could also be affected by the number of applications that are considered in each of above mentioned categories.

52. In relation to the community engagement report preparation, views were sought from organisations that were supporting development of heat network projects. Unfortunately, the costs of the community engagement were not documented and therefore cannot be used as proxy to estimate financial implication for prospective applicants for the heat network licence. Comments provided by the engaged organisations such as Local Energy Scotland or Energy Savings Trust was related to the significant amount of work that can be carried out by the consultants or by the community organisations themselves in developing the community engagement report. That is why the costs outlined in relation to the planning system were not considered as appropriate for the purposes of this Supplementary Financial Memorandum.

53. In order to identify the costs associated with production of the community engagement report that would ensure independent and comprehensive consultation with the community as well as production of the report evidence from the Low Carbon Infrastructure Transition Programme (LCITP), which provides a range of support to assist the development and delivery of private, public and community low-carbon projects across the country. According to the estimates based on experience from the LCITP, it can be expected that preparation of such report would cost between £20,000 and £40,000 assuming that this work is outsourced. Should the heat network consent applicant decide to carry out this work themselves these costs could be reduced. The limitations of this estimate are acknowledged as the costs will largely depend on the size of the project, guidance that will be developed by the Scottish Ministers, and the approach taken by the individual applicant.

54. As described in section above, based on the deployment scenarios developed by KPMG (developed for the purposes of the original Financial Memorandum), it was estimated that approximately 30 larger heat network

schemes would require delivery every year to meet the Scottish Government's deployment trajectory. It was estimated that in the low deployment scenario, approximately 5 larger heat network schemes would be delivered, and in the medium deployment scenario, approximately 21 would be delivered. Assuming that an average community engagement report would cost £30,000 to undertake, the total cost for the sector across 10 years would range from £1,392,206 to £8,353,236 in nominal prices (assumed 2% inflation) .

55. The Scottish Government will ensure that the indicative costs associated with development of the community engagement report will be considered during the development of the guidance.

Part 6 – Powers of licence holders

Context

56. The Heat Networks (Scotland) Bill as introduced did not make a provision for heat network developers and operators to have road work rights. Lack of road works rights for heat network licence holders was cited as one of the barriers to their deployment as it can cause substantial delay and costs for the installation and maintenance of heat networks. Within the Policy Memorandum the Scottish Government committed to bringing forward an amendment at Stage 2 to provide road works rights.

57. As committed in the Policy Memorandum, the Scottish Government has undertaken further engagement with relevant roads and utility stakeholders to ensure that any such provisions are compatible with the long-established governance processes regarding access to roads by utility providers.

58. Following the consultation, the amendment ensures that only certain licence holders obtain road works rights to ensure proportionality of the system for both licence holders, but also to reduce administrative burden on the Scottish Road Works Commissioner and wider disruption with regards access to roads. Furthermore, it follows the existing legislation such as the New Roads and Street Works Act 1991 to ensure alignment with existing practices.

59. Certain aspects raised by some of the stakeholders such as the placement of the pipework in relation to other utilities under the road are

going to be addressed by subsequent guidance that are to follow after the passage of the Bill.

Power to carry out road works

Costs on the Scottish administration

60. The Heat Networks Bill will introduce additional powers which relate to road works. Access to roads is mostly administered by the road works authorities. The road works authorities (councils for local roads and Transport Scotland for motorways and trunk roads) retain responsibility for the co-ordination of all road works on the roads for which they are responsible. The reinstatement of road surfaces following excavation remains the responsibility of the organisation which carried out the works. Road works authorities have powers to inspect works to ensure that utility companies are meeting their obligations.

61. The traffic management at road works (cones, signs and barriers) remains the responsibility of those undertaking the works and any decision related to the repair and maintenance of roads remains with the road works authority. The financial implications on those organisations will be considered in relevant sections below.

62. As such the amended section does not have financial implications for the Scottish Administration except for limited costs relating to development of regulations in relation to heat network licenses, in particular to licence holders that will be given rights to carry out road works. These costs are included in Part 1 of the original Financial Memorandum.

Costs on Scottish local authorities

63. The Bill as amended provides that only certain licence holders will receive road works rights and that all remaining licence holders will be able to carry out road works using section 109 of the New Roads and Street Works Act 1991 (the 1991 Act).

64. Since heat networks are mostly located in local areas, it is likely that an increase in deployment of networks in Scotland may subsequently lead to an increase in applications to undertake road works to the local road

works authority in instances where a licence holder does not hold road work rights in their licence.

65. The total amount of disruption and road works however is not possible to be estimated at this stage since it is not clear what design and routes the heat networks will take during their development.

Costs on other bodies, individuals and businesses

66. Some of the bodies that will be impacted by introduction of powers for licence holders in relation to road works were identified to be:

- Transport Scotland – as a road works authority for motorways and trunk roads.
- Scottish Road Works Commissioner – whose aim is improve the planning, co-ordination and quality of road works throughout Scotland by monitoring performance, promoting and encouraging good practice across both utility companies and roads authorities. The Commissioner also has powers to impose financial penalties on roads authorities who systematically fail in their duty to co-ordinate and upon utility companies who systematically fail to co-operate when undertaking road works.

67. With respect to the Transport Scotland the financial implications on this body as a road works authority are expected to be limited. Since heat networks tend to be local developments they are not often laid under motorways (M class trunk roads (motorways) are also protected roads, meaning it is generally prohibited to place new apparatus under them without very specific consent). However, should that occur the financial implications would be similar as those incurred by other road works authorities.

68. Financial implications for the Scottish Road Works Commissioner are likely to be a result of additional organisations having access to undertake road works. However, it is not possible to estimate the increase in amount of road works that will be carried out as a result of the Bill and subsequently the impact that it may have on the Scottish Road Works Commissioner.

Impacts on Heat Network Licence Holders

69. Furthermore, any heat network licence holders that will wish to use their new powers are likely to incur fees associated with registering with the Scottish Road Works Register which can vary between £2,500 and £10,000 (in 2019 prices) depending on the size of an area within which they plan to perform road works (see Table 33). Smaller fees are likely to be incurred by local companies that intend to operate within small local boundary and larger fees are likely to be applicable to large heat network licence holders who intend to operate across the whole of Scotland. This is a one-off payment that would be followed by subsequent annual payments based on noticing volume.

Table 3 - Registration with the Scottish Road Works Register: Fees

Cost (£) 2019	Low	Medium	High
One-off registration to SRWR fee	2,500	6,250	£10,000

70. The total cost across all licence holders can be estimated assuming that every new licence holder that will wish to obtain road works rights will also need to sign up to the Scottish Road Works Register. Since the networks tend to be local developments, however some of the licence holders may require rights across different sites, the medium amount of £6,250 was used to estimate the total costs for all prospective licence holders across 10 years. It is assumed that not all of the licence holders will wish to obtain powers to carry out road works, that is why this analysis assumes that up to 48 licence holders may wish to do so. This is based on lower bound estimate of prospective number of licence holders in Scotland as identified by the KPMG Report⁴ (see para 98 in original Financial Memorandum). Based on that it can be estimated that total costs to licence holders across 10 years will be £328,645 in nominal prices (inflation assumed at 2%).

⁴ KPMG have looked to estimate the potential number of operators in Scotland, due a lack of specific data on this factor. They have identified that in total, there are around [1,600 supplier/operators](#) across the UK as a whole, we have proportionally scaled this to reflect the [6% of total UK](#) heat networks stationed in Scotland.

71. The Commissioner can impose a penalty of up to £50,000 to both road works authorities and utility companies for a systematic failure to co-ordinate or co-operate respectively. Both road works authorities and utility companies are regularly provided with an indication of their performance through analysis reports and performance reviews. The power to issue penalties will only be used as a last resort following opportunity for improvement having been given. However, should the licence holders fail to co-ordinate or co-operate the suitable penalties may also be issued. Those penalties however will depend on the non-compliance with statutory guidance and it is expected that any licenced heat networks operators will be acting in line with any existing guidance.

Impacts on individuals

72. Finally, individuals will be affected by any disturbance cause by an emergency or any required road works. Any licence holders that would have rights to carry out road works would have to comply to existing legislation under the New Roads and Street Works Act 1991 that provides necessary safeguards for any individuals that may be disturbed by works carried out in the road. These matters are overseen by the Scottish Road Works Commissioner as described in the section above.

Registration of network wayleave rights

Context

73. The registration of network wayleave rights was the issue that was discussed at Stage 1 by Professor Roderick Paisley.

74. It was recommended by Professor Paisley that: “Apart from the issue of prescription noted above, I would strongly recommend that wayleaves should be registered in the Land Register of Scotland to make them real. This gives notice to all using land. It is economically sound and allows maximum safe use of land.”

75. On the other hand, Scott Wortley in his evidence noted that:

“Regarding registration I understand the motivation of wanting a clear transparent land register identifying the rights and obligations which apply to land. This could be identified as a desirable policy objective. However, not registering would be in keeping with the Land Registration (Scotland) Act 2012, s 9. Not registering would be in keeping with the general approach to wayleaves in other contexts (I have not been through all of the examples listed by Cusine and Paisley in their appendix of

statutory rights, but registration of the wayleave seems unusual from those I have considered). Also if there is a requirement to register this introduces some other issues.”

76. The Scottish Government held bilateral consultation with Registers of Scotland to understand the implications of placing a requirement to register the network wayleave rights in the Land Register. Having been advised about the costs associated with the registration in the Land Register that could prove prohibitive to some projects it was decided that a broad power will be taken to ensure that registration of network wayleaves could be provided for by regulation. Further consultation with the industry was considered necessary to ensure that the aims of the Bill to encourage deployment of heat networks in Scotland were met.

77. The Bill as amended provides the Scottish Ministers with a power to make provision for or about the registration of network wayleave rights by regulations.

Costs on the Scottish administration

78. The financial implications of this change to the Bill are twofold. First, the cost associated with development of the regulations under the new section alongside the costs of undertaking consultation with industry have been considered. These however are expected to be covered by the initial work that needs to be undertaken by the Scottish Government as set out in Part 1 of the Financial Memorandum on development of the regulatory system under this Bill.

79. Secondly, the costs associated with the administration of any register that is to be created and undertaking the registration of wayleave rights. The proxy available in this case was provided by the Registers of Scotland during the discussions ahead of Stage 2.

80. Current standard costs associated with potential requirement for registration of wayleave rights on title deeds of properties is £70 per deed per registration. Each registration event would necessitate the payment of a registration fee.

81. Heat networks are most suitable in heat dense area which may have multiple properties in close proximity, such as high-rise blocks or tenements consisting of number of flats, or in other dense urban

developments such as urban housing developments. For some developments heat networks may pass through land that is adjacent to a development (even though it may not be connected to it) and therefore wayleave rights may need to be registered against each title. Similarly, should the network wayleave right be required to be registered to against each title deed for flats within a tower block or tenement the costs would escalate very quickly. Likewise, should the network wayleave right pass under the gardens of multiple detached or semi-detached houses, the registration fee could accumulate to significant numbers for large projects.

82. During the development of the regulations in relation to the registration of wayleave rights all appropriate costs will be considered and the system designed in such a way to minimise the burden on the heat network licence holders while recovering the administrative costs of any registration of wayleave rights and keeping of the register.

Costs on Scottish local authorities

83. There are no direct financial implications on the local authorities due to this change in the Bill. However, should local authorities wish to develop their own heat networks and become a licence holder they will be bound by the same financial implications as outlined below.

Costs on other bodies, individuals and businesses

84. The registration of the network wayleave rights may have significant impact on businesses that wish to use such right. As outlined above, registration of the wayleave right on the title deeds of properties as administered by Registers of Scotland is £70 per deed per registration. For larger heat network development projects these costs can add to already significant capital expenditure and therefore a more cost effective solution would be developed as part of the regulations under the new provision.

85. All of those who will wish to access any future register of heat network wayleave rights may be charged a fee that is due to be set in secondary legislation. This will enable administrative costs of maintaining the register and sharing of the information to be recovered. The registration of network wayleave rights will increase the transparency in the sector and will help other developers in understating where such rights have been granted.

Part 7A – Heat networks delivery plan

Context

86. This amendment creates a new Part of the Bill that requires the Scottish Ministers to publish a "Heat Networks Delivery Plan" no later than 1 April 2022. The Plan must include: the approach of the Scottish Ministers in supporting heat network deployment; how heat generated by all heat networks in Scotland will be measured; and how the deployment of heat networks will contribute to Scotland's overall climate change targets. The Plan must also be laid in Parliament and would be subject to a report on progress every two years.

Costs on the Scottish administration

87. Main financial implications associated with the development of the Heat Networks Delivery Plan (the Plan) will be connected to staff time and consultation costs for the Scottish Government.

88. Based on the Scottish Government's experience in developing similar documents, it was estimated that team consisting of Team Leader (between 0.25 and 0.5 FTE); Senior Technical Advisor/Technical Expert (between 0.5 and 1.5 FTE) and a Policy Officer (between 0.5 and 1.5 FTE) as set out in Table 4 below should be able to develop the strategy before 1 April 2022.

Table 4 – Heat Network Delivery Plan Staff Costs per annum in 2019 prices and in nominal prices for 2021/22 (assumed inflation at 2%).

Staff resource		FTE	2019/20	2021/22
Team Leader @ £74,921	Low	0.25	£18,730.25	£19,467.85
	High	0.5	£37,460.50	£38,935.69
Senior Advisor / Technical	Low	0.5	£28,431.00	£29,550.61

Expert @ £56,862	High	1.5	£85,293.00	£88,651.84
Policy Officer @ £35,968	Low	0.5	£17,984.00	£18,692.21
	High	1.5	£53,952.00	£56,076.63
Total Costs	Low		£65,145	£67,710.67
	High		£176,706	£183,664.16

89. Additionally, as the public consultation would be required, the estimated average range of costs to undertake one consultation in 2019 prices outlined in the Financial Memorandum (see table 5) were also taken into consideration when estimating the financial implications of this provision. It is important to note that prices outlined in table 5 are assuming that the consultation events will take place in person as they were estimated prior to the COVID-19 pandemic. However, for the consistency purposes these estimates will also be used in determining the total costs for Scottish Administration.

Table 5 - Average range of costs to undertake one consultation in 2019 prices and in nominal prices for 2021/22 (assumed inflation at 2%)

Costs (£) 2019	Low	Medium	High
Publishing the consultation document	1,000	2,000	3,000
Consultation Events	1,500	3,000	4,500
Independent Consultation Analysis	2,500	5,000	15,000
Publication of the consultation analysis	800	1,650	2,500
Total	5,800	11,650	25,000
Total for 2021/22	6,028	12,109	25,985

90. Based on evidence outlined above, the total costs of producing the Plan in 2021/22 will range between £73,739 and £209,649 in nominal prices. There will be some costs associated with review and update of the Plan on the 2 year basis, however these are likely to be covered by ongoing Heat Networks Policy Team at the Scottish Government. Due to the current situation associated with the COVID-19 pandemic, costs associated with consultation events will be limited as they will be undertaken online and so initially the costs of developing the Plan are likely to be at a lower part of the range.

Costs on Scottish local authorities

91. It is not expected that local authorities would incur additional costs as a result of development of the Plan. Minor costs may be associated with responding to consultations on a delivery plan where they occur, and these are assumed to be included within normal operating costs.

Costs on other bodies, individuals and businesses

92. It is not expected that other bodies, individuals and businesses would incur additional costs as a result of development of the Plan. However, should they be consulted during the plans development some officer time may be devoted to engagement with the Scottish Government.

Summary of financial implications

93. The table below summarises all of the financial implications that are a result of the changes to the Bill at Stage 2.

Table 6 – Summary of financial implications of changes to the Bill

		Year 1 and 2 (2021 - 2023) in nominal prices (assumed inflation at 2%).	Years 3 to 10 (2023 - 2031) in nominal prices (assumed inflation at 2%).
Costs to Scottish Administration	Heat Network Consenting Designation	Costs will be included into development of regulations package as described in Part	£1,195,328 - £19,125,254

		1 of the original Financial Memorandum.	
	Community Engagement Report	Costs of developing the guidance will be covered by those described in Part 1 of original Financial Memorandum.	Ongoing scrutiny costs included in heat network consent application processing costs.
	Power to carry out road works	Costs will be included into development of regulations in relation to heat network licenses, in particular to licence holders that will be given rights to carry out road works. These costs are included in Part 1 of the original Financial Memorandum.	No expected costs.
	Registration of network wayleave rights	Costs will be included into development of regulations package as described in Part 1 of the original Financial Memorandum.	Costs associated with maintenance of network wayleave right register.
	Heat Network Delivery Plan	£73,739 - £209,649	Ongoing costs of the updating the Plan covered by existing Heat Networks Team.
Costs to Scottish Local Authorities	Heat Network Consenting Designation	Costs associated with providing input to development of heat network consents system.	No additional costs expected as new functions will be covered by revenue from fees and any funding gap by the Scottish Administration.
	Community Engagement Report	Costs associated with providing input into development of the guidance.	Ongoing scrutiny costs included in heat network consent application processing costs.

This document relates to the Heat Networks (Scotland) Bill (SP Bill 64A) as amended at Stage 2

Other bodies, individuals and businesses	Community Engagement Report	Some costs associated with providing input into development of the guidance.	£1,392,206 - £8,353,236
	Power to carry out road works	No expected costs.	up to £328,645
	Registration of network wayleave rights	No expected costs.	Potential heat network wayleave registration fee. Not quantified at this point.

Heat Networks (Scotland) Bill

[As Amended at Stage 2]

Supplementary Financial Memorandum

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