

Heating regulations

13 January 2017

Daryl Rivero and Louise Kellaway answer questions on the requirements of the Heat Networks (Metering and Billing) Regulations 2014

I am landlord of a multi-let property, including occupiers who have leased multiple floors, some of which are subleased. I understand the tenants and I are affected by the Heat Networks (Metering and Billing) Regulations 2014. What do we need to do before the December 2016 deadline?

The [Heat Network \(Metering and Billing\) Regulations 2014](#) apply to both district heat networks and communal heating, but only the latter is covered here. There are both civil and criminal penalties for non-compliance, including unlimited fines.

You should first work out whether you are a supplier of communal heating, which you will be if all of the following apply:

- thermal energy is distributed around a single building as steam, hot water or chilled liquids from a central source
- this is for space or process heating, cooling or hot water
- you supply this heating, cooling and/or hot water to 2 or more final customers, who buy it for their own consumption.

If you are not sure whether the regulations apply, a useful place to start is the enforcement agency's guidance, such as the [heat networks scope guidance](#) and [frequently asked questions](#). The government body named [Regulatory Delivery](#) took over as the enforcement agency on 1 April, so do consult its latest online guidance as well.

If I am a supplier of communal heating, what should I do?

- You must notify the Secretary of State, providing detailed information about each communal heating system you operate. The deadline for notification was 31 December 2015 or, for systems first operating after that date, on or before the first date of operation. Notifications must be renewed every 4 years. Regulatory Delivery has suggested that multiple heat suppliers arrange for the primary supplier ? which will be you, if you are in charge of building services ? to submit a notification that includes all the other heat suppliers' information.
- When a meter is being replaced, you must ensure, unless exemptions apply, that the replacement is a "suitable meter"; that is, it accurately measures, memorises and displays a final customer's consumption of heating, cooling or hot water.
- As of 31 December 2016, where it is cost-effective and technically feasible, you must ensure that suitable meters are installed to measure each final customer's heating, cooling or hot water consumption. Where these are installed, the heat supplier must ensure temperature control devices are fitted to enable each customer to control their consumption.
- If it is not cost-effective or technically feasible to install suitable meters, a heat supplier may have to install alternative measuring equipment.

- Where you have to ensure that meters or heat cost allocators are installed, you must also ensure, unless exemptions apply, that all bills for the consumption of heating, cooling or hot water by a final customer are accurate, based on actual consumption and comply with standards in the regulations. You also have to give certain detailed billing information to each final customer.
- You may want to ensure that future leases or licences to occupy include wording that allows you access to the premises to comply with the regulations and recovery of your compliance costs ? such as those for notifications, carrying out works and associated professional fees ? from the occupier. You should also ensure you can charge occupiers for heating, cooling and hot water based on each final customer's actual consumption.
- You should check existing leases and licences to occupy as well. Regulatory Delivery has advised that even where an existing contractual arrangement does not provide for a heat supplier to bill the occupier for actual consumption of heating, cooling and/or hot water, the supplier must still comply with the regulations; you cannot use the existence of conflicting contractual arrangements as a defence if you breach these.

Can my tenants be heat suppliers too?

If you are a heat supplier and your tenant has sublet or licensed their premises to a number of final customers, then they will be both a final customer and a heat supplier.

In practice, a tenant's lease will probably not grant them the rights needed to carry out works to services or common parts to install meters or other equipment required by the regulations. They may thus only be able to comply if you, as superior landlord in control of building services, comply. However, the tenant is still subject to civil and criminal sanctions if they do not comply. Landlords and occupiers may therefore need to cooperate with each other to fulfil the regulatory requirements.

Are there any further points for my tenants?

When a tenant is granting a lease or licence to occupy, they should consider whether they will become a heat supplier as a result of the new occupation when they were not before.

This information is necessarily brief and is not intended to be an exhaustive statement of the law. It is essential that professional advice is sought before any decision is taken.

Daryl Rivero is a senior associate and Louise Kellaway is a professional support lawyer in the Real Estate Department of [Stevens & Bolton LLP](#)

Further information

Related competencies include: [Property management ? accounting](#)

This feature was taken from the RICS *Property journal* (November 2016)