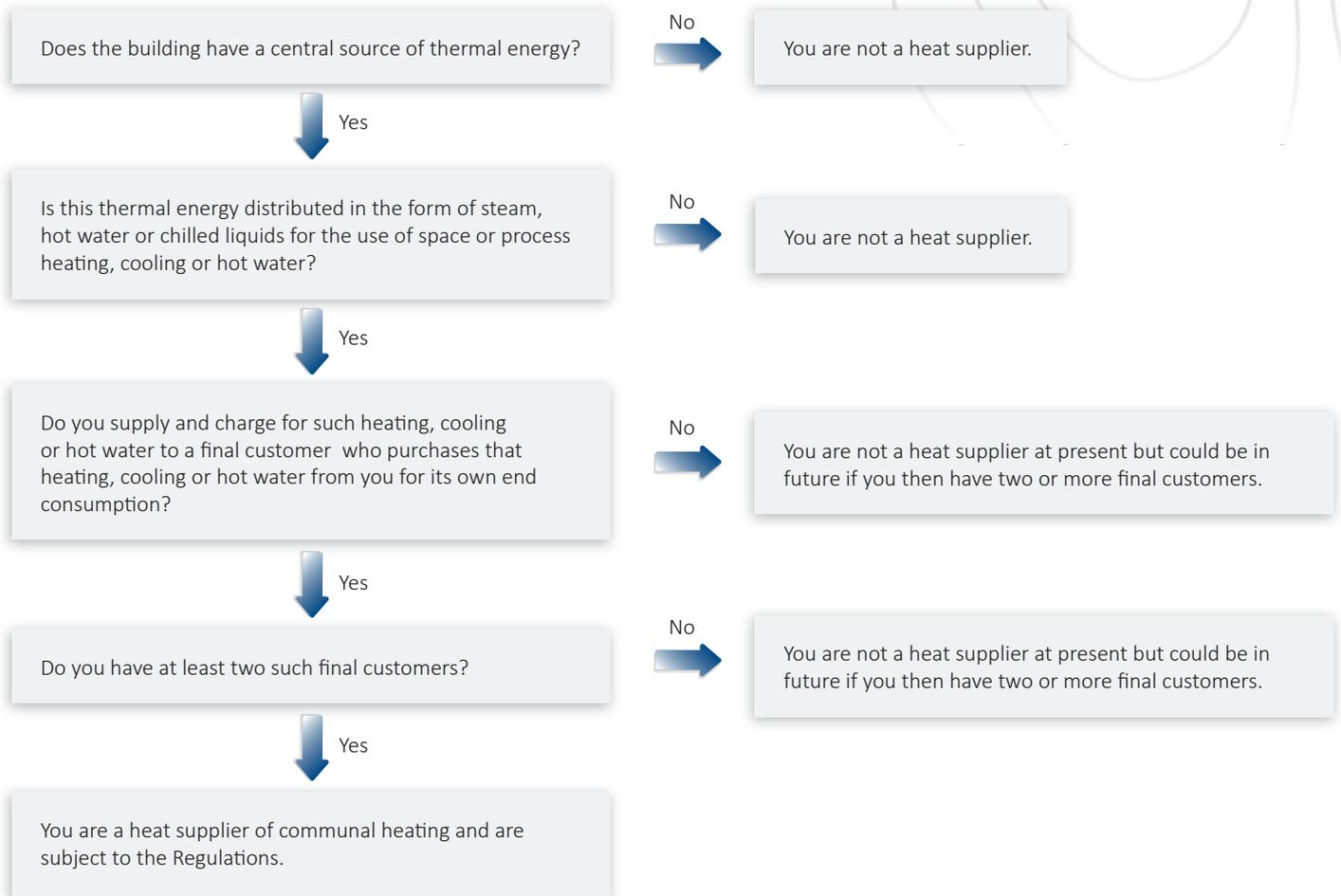


Are you a heat supplier of communal heating under the Heat Network (Metering and Billing) Regulations 2014?

The Heat Regulations affect landlords and occupiers of multi-let buildings where heating, cooling, and/or hot water is supplied through a communal system



What are the obligations of a heat supplier of communal heating?

(i) Notification

A heat supplier must notify the Secretary of State, providing detailed information about each communal heating system it operates. The deadline was 31 December 2015 or (for communal heating systems first operating after that date) on or before the first date of operation. Notifications must be renewed every 4 years.

(ii) Installation of meters or other methods of measuring the consumption of heating, cooling and/or hot water through a communal heating system

On or after 18 December 2014 when an existing meter in a communal heating system is being replaced, a heat supplier must ensure (unless exemptions apply) that the replacement meter is a suitable meter.

What is a suitable meter? One that accurately measures, memorises and displays the consumption of heating, cooling or hot water by a final customer.

Commencing on a date to be set out in amendment

regulations to be published in 2017 a heat supplier must ensure that suitable meters are installed in all buildings with a communal heating system, where it is cost-effective and technically feasible to do so. Heat suppliers also have obligations to install alternative measuring equipment and temperature control devices, subject to exemptions.

These obligations originally applied commencing 31 December 2016. However, the government has announced recently that:

- the department for Business, Energy and Industrial Strategy (BEIS) is revising the cost effectiveness tool;

- in the meantime, it advises that no further assessments should be undertaken;
- BEIS hopes to launch a consultation in early 2017 on a revised methodology for assessing the cost effectiveness of metering for communal heat networks;
- Regulatory Delivery will take a pragmatic approach to non-compliance with this requirement until a new tool is in place;
- the consultation will also seek views on other areas where the regulations should be clarified.

(iii) Compliant bills and billing information

Where the Regulations impose a duty on a heat supplier to ensure meters or heat cost allocators are installed, the heat supplier must (unless exemptions apply):

- ensure that all bills for the consumption of heating, cooling or hot water by a final customer:
 - are accurate; and
 - are based on actual consumption; and
 - comply with the standards set out in Schedule 2 to the Regulations;
- provide detailed billing information (specified in Schedule 2) to each final customer.

What are the penalties for non-compliance? There are both civil and criminal penalties, including unlimited fines.

Practical considerations

For landlords - Where the Regulations apply, or may apply in the future, a landlord or licensor should bear in mind when negotiating leases or licences to occupy that it:

- may want to be able to recover its compliance costs from the occupier, for example costs of notifications, carrying out works and associated professional fees;
- may need access to the demised / licensed premises to comply, for example to carry out works; and
- will need to be able to charge occupiers for heating, cooling and hot water based on each final customer's actual consumption.

Moreover a landlord granting a lease or licence to occupy or being asked to grant a licence to underlet part, should consider whether the landlord will become a heat supplier as a result of the new occupation when it was not before.

For occupiers – an occupier may:

- be concerned that landlord's / licensor's access to do works to comply with the Regulations may disrupt its business;
- not want to pay the landlord's / licensor's compliance costs;
- prefer to pay a single payment for occupation or a fixed percentage of service charge, rather than paying separately for heating, cooling and/or hot water that it uses. However landlords / licensors may now not agree to that where the Regulations apply or may apply in future;
- be concerned that it may itself become a heat supplier if it sub-lets/licenses to two or more final customers.

Difficult areas

Intermediate landlords

If a customer of a communal heating system sub-lets space to a number of sub-tenant final customers, the intermediate landlord is both a final customer and a heat supplier. In practice, a tenant of part of a multi-let building generally does not have rights to carry out the works to services and the common parts needed to install meters or other equipment required by the Regulations. An intermediate landlord may therefore only be able to comply if the superior landlord in control of building services complies. However, a heat supplier appears to still be subject to civil and criminal liability if it does not comply, even where it does not have the legal property rights required to allow it to comply.

The enforcement agency has advised that where there are multiple heat suppliers, an arrangement should be made for the primary heat supplier to submit a notification for the network which includes all the other heat suppliers' information.

Existing leases and licences

The enforcement agency has advised that where an existing contractual arrangement with an occupier does not provide for a heat supplier to bill the occupier for its actual consumption of heating, cooling and/or hot water, the Regulations must still be complied with. The existence of conflicting contractual arrangements will not constitute a defence if a heat supplier breaches the Regulations.

Further information –

NMRO guidance - [Heat networks scope guidance: January 2016](#)
 NMRO - [Frequently asked questions](#)
 GOV.UK - [Heat network metering and billing regulations: compliance and guidance](#)

You should contact your surveyor for guidance on the technical building aspects of the Regulations.

The Regulations implement some requirements of the 2012 EU Energy Efficiency Directive. Following the 23rd June vote in favour of Brexit, it remains to be seen whether the Regulations will be amended or repealed after the UK leaves the EU. However, at present heat suppliers should comply with the Regulations.

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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. This briefing does not cover District Heat Networks.

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