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Convener Edward Mountain
Net Zero, Energy and Transport Committee
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8 November 2024

Dear Edward,

I am sharing an update on the review of the New Build Heat Standard (NBHS) as members of the Net Zero, Energy and Transport Committee have previously shown interest in the Standard.

The NBHS, as introduced under Standard 6.11 of The Building (Scotland) Amendment Regulations 2023, was originally heard by the Local Government, Housing and Planning Committee on 12 September 2023 where no comments were made and the regulations were passed. The Standard, as introduced, prohibited the use of polluting heating (known as Direct Emissions Heating) in new buildings applying for a building warrant from 1 April 2024 and for certain conversions. The use of such systems was only permitted in emergency circumstances.

On 28 May 2024, the then Minister for Climate Action, Gillian Martin, announced a review of the Standard in response to concerns raised regarding the resilience of rural and island communities during periods of extreme weather and other events which may cause the failure of the main heating system, and therefore the reliance of those communities on alternative sources of fuel for heating.

I am very pleased to share with you that today we will be laying an SSI to amend the NBHS. This amendment will permit the use of bioenergy and peat heating systems in new buildings, in recognition of the concerns raised following the introduction of the NBHS in April 2024. All secondary heating systems will also be permitted.

I am grateful to any members of the Net Zero, Energy and Transport Committee who have inputted into the review of the NBHS and look forward to engaging further on this topic.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

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The NBHS remains a crucial piece of legislation to help tackle emissions in new buildings, preventing the need for retrofit in the future, and ensuring a cleaner and greener Scotland.

Yours sincerely,

Alasdair Allan

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NOTIFICATION TO THE SCOTTISH PARLIAMENT

Name of the SI(s) (if known) or a title describing the policy area

Name of SI: The Clean Heat Market Mechanism Regulations 2024

Policy area: Heat in Buildings.

Is the notification Type 1 or Type 2:

Neither. As per section 151 of the Energy Act 2023, the UK Government is informing the Scottish Ministers of these regulations, and does not require the consent of the Scottish Ministers.

A brief overview of the SI (including reserved provision)

The UK Government intends to introduce a Market-Based Mechanism to support their target of 600,000 heat pump installations per year by 2028. The Mechanism would obligate fossil fuel boiler manufacturers (“obligated parties”) to install a certain number of heat pumps proportional to their fossil fuel boiler sales. This is intended to incentivise industry to invest and innovate throughout the supply chain. The mechanism will apply across the UK.

To support the development of the mechanism the UK Government have consulted twice on proposals, in 2021 and 2023. The former Minister for Zero Carbon Buildings, Active Travel and Tenants’ Rights, Patrick Harvie MSP, provided a response on behalf of the Scottish Government to both consultations, which was supportive. The UK Government confirmed that the Market Mechanism would take effect from 1 April 2024, but it later announced a delay. The new UK Government has decided to launch the scheme on 1 April 2025.

The Clean Heat Market Mechanism is a UK-wide scheme, so all provisions of the Regulations apply in relation to Scotland. However, within the Regulations there are some specific Scottish provisions, mainly to reference appropriate Scottish legal definitions. These are:

- Regulation 34(4) - description of person who can issue a warrant
- Regulation 35(1) - use of answers given to questions asked under regulation 33(1)(c) in civil or criminal proceedings. and the different treatment of Scottish civil proceedings, based on the precedent in Article 42 of the UK ETS (SI 2020/1265)
- Regulation 35(3)(b) – reference to the Scottish perjury offence

- Regulations 47 and 48 – references to a fine not exceeding the statutory maximum on summary conviction and to a fine on conviction on indictment in Scotland
- Regulation 50 – rules regarding Scottish partnerships

The Environment Agency will act as the scheme administrator across the UK.

Summary of the proposals

The UK Energy Act 2023 confers powers on UK Ministers to legislate to establish a low carbon heat initiative, an instrument which is expected to be titled the Clean Heat Market Mechanism Regulations. This SI is the exercise of such powers. Please refer to the above section which highlights Scottish provisions.

In summary, the Clean Heat Market Mechanism (CHMM) is a tradable obligation on manufacturers of fossil fuel boilers to help grow the number of low-carbon heat pump installations each year. Accelerating the deployment of heat pumps in homes and building is critical to achieving a smooth transition to net zero. The CHMM aims to provide heating appliance manufacturers with the confidence, incentive and stability they need to invest in expanding the UK heat pump market. This seeks to encourage innovation and competition to find ways to make it simpler and more attractive for consumers to choose to install a heat pump.

The scheme will launch on 1 April 2025 and will require fossil fuel boiler manufacturers to install a certain number of retrofit heat pumps, relative to their fossil fuel boiler sales, or to acquire heat pump credits through trading with other firms. Boilers verifiably for export outside the UK or for UK new-build properties are excluded from how a manufacturers obligation is established, and manufacturers with sales below a de minimis level are also excluded.

Does the SI relate to a common framework or other scheme?

The purpose of the SI is to introduce a UK market mechanism to accelerate the pace of heat pump installation in retrofitting existing properties. This will support the transition to clean heating and therefore contribute to meeting legislative net zero targets in Scotland and across the UK. The Scottish Parliament has previously given consent for provisions now in the UK Energy Act 2023.

Summary of stakeholder engagement/consultation

To support the development of the mechanism the UK Government have consulted twice on proposals, firstly in 2021 and secondly in 2023. Scottish

Government officials have been in regular contact with UK Government as their proposals developed and the relevant Scottish Government Minister responded to both consultations. The UK Government published their response to the 2023 consultation on 30 November 2024. It can be accessed at: [Clean heat market mechanism - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/clean-heat-market-mechanism)

A note of other impact assessments, (if available)

UKG officials undertook an impact assessment which is available in the above link.

Summary of reasons why Scottish Ministers support the legislation

The policy intention of the Regulations align well with delivering against our own net zero targets as it will support accelerating the transition to clean heating systems, something which will be essential to substantially reducing the proportion of Scotland's emissions which are accounted for by heating our buildings (currently around a fifth of all emissions).

Intended laying date (if known) of instruments likely to arise

The UKG intends to lay the SI as soon as Parliamentary time allows, although a specific date has not yet been set (at time of writing).

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

Not Applicable. As per section 151 of the Energy Act 2023, the UK Government is informing the Scottish Ministers of intention to lay these regulations, and does not require the consent of the Scottish Ministers.

Information about any time dependency associated with the proposal

There are no time dependencies related to this SI, although the Scottish Government support early action to support development of the retrofitting heat pumps market.

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

Not applicable to this SI.

Any significant financial implications?

No. The Regulations will not generate any financial requirements for the Scottish Government as the scheme will be administered by the Environment Agency on a UK wide basis.

SI NOTIFICATION: SUMMARY

Title of Instrument The Clean Heat Market Mechanism Regulations 2024
Proposed laying date at Westminster November 2024
Date by which Committee has been asked to respond To note
Power(s) under which SI is to be made Sections 143 of the Energy Act 2023.
Categorisation under SI Protocol Not applicable
Purpose That the Scottish Parliament notes the aforementioned SI, which delivers measures that will support development of a heat pump market for retrofit by requiring fossil fuel boiler manufacturers above a certain size to install a certain number of heat pumps proportional to their fossil fuel boiler sales.
Other information N/A
SG Policy contact: Karl Reilly