

New obligations for landlords with communal heating systems

Key points

- notify the National Measurement Office (NMO) by 31 December 2015
- install and maintain meters for each occupier by 31 December 2016
- bill on the basis of actual meter readings

[*The Heat Network \(Metering and Billing\) Regulations 2014*](#), which came into force in England, Wales, Northern Ireland, and Scotland on 18 December 2014, have the ultimate aim of improving energy efficiency and giving occupiers of property more accurate information about their energy consumption. They coincide with the UK Government's nationwide rollout of smart meters amid growing demands from consumers for greater transparency and fairness in energy pricing. This briefing considers the law as it affects England and Wales.

The regulations apply to multi-let residential and commercial buildings. They impose obligations on the person who supplies and charges for communal heating, cooling or hot water, where occupiers pay their energy costs either directly or through a service charge. This might be a landlord, intermediate landlord or management company depending on individual circumstances.

If the regulations apply, it is important to understand each requirement and begin preparations in good time to ensure compliance by the deadline. With the first deadline to notify the National Measurement Office (NMO) by the end of 2015, landlords should start collecting the technical data about the heating, cooling and hot water system within each building now. Landlords should also begin the process of evaluating which metering devices, if any, will need to be installed by the end of 2016. There are criminal penalties for failure to comply.

The new requirements

1. Notification by 31 December 2015

Originally to be done by the end of April, landlords must now inform the NMO **before 31 December 2015** about their buildings' communal heating, cooling, and hot water systems. Landlords can use the NMO's [notifications template](#). The NMO's preference is for completed forms to be submitted by email and, at the time of writing, the address is: heatnotifications@nmo.gov.uk.

Going forward, this information must be supplied to the NMO at least every four years.

2. Metering by 31 December 2016

From 31 December 2016, landlords must have installed meters to measure the supply of heat, cooling, or hot water to each occupier in multi-occupancy buildings unless it would not be technically feasible or cost-effective to do so.

In such circumstances, landlords must install heat cost allocators, thermostatic radiator valves on radiators, and hot water meters, again unless it would not be cost-effective or technically feasible to do so. There are detailed provisions about cost-effectiveness and technical feasibility, which are beyond the scope of this briefing.

There are also ongoing obligations to ensure meters are continuously operated, properly maintained, and periodically checked for errors.

Despite the requirement to install meters, the regulations do not give landlords a statutory right to enter let premises. At first glance, this looks like a significant oversight. Landlords will therefore need to consider what rights of entry are reserved under their leases and whether arrangements can be made with tenants to comply with these obligations. It might be that the failure of a tenant to give access would be a reasonable defence to any enforcement action but specific advice should be taken.

3. Billing

Where meters or heat cost allocators are installed, landlords must ensure billing is accurate and based on actual meter readings. Landlords will also need to provide tenants with certain billing information where it is technically possible and economically justified.

Under the regulations, landlords may pass on the reasonable costs of billing to tenants where it is carried out by an agent. Landlords should also check the provisions of their leases to determine whether the cost of complying with the regulations might be recoverable from tenants.

Ed Cracknell, senior associate in the contentious property team, comments, "The regulations have not been widely publicised, and may come as a shock to some landlords or managers of buildings that contain communal heating systems. There is, at least, a long lead-in time to comply. There may be some argument about who the obligations fall to, particularly where there is a complicated leasehold structure. There is certain to be argument about whether it is technically feasible and cost effective to install individual meters or heat cost allocators in particular buildings. In cases of doubt, appropriate advice should be taken, sooner rather than later."

For more information, please contact:

Ed Cracknell

Senior associate

+44 (0)20 7440 4818

Ed.Cracknell@russell-cooke.co.uk

This material does not give a full statement of the law. It is intended for guidance only and is not a substitute for professional advice. No responsibility for loss occasioned as a result of any person acting or refraining from acting can be accepted by Russell-Cooke LLP. © Russell-Cooke LLP. April 2015

www.russell-cooke.co.uk