

Statutes in translation

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District Heating Act (2008:263)
(Only the Swedish version is authentic)
(Including amendments up to 1 January 2012)

Introductory provisions

Section 1 The term district heating operation in this Act denotes the distribution in pipelines of heated water or other heat carrier for heating, provided an unspecified group within a particular geographic area may be connected to the operation.

A district heating operation also includes the production and sale of the heat distributed in the pipelines, provided the party conducting the distribution also conducts the production and sale of the heat.

Section 2 In this act,
the term district heating undertaking denotes a legal person that conducts a district heating operation,
the term district heating customer denotes a party which has concluded a district heating contract with a district heating undertaking,
the term consumer denotes a district heating customer who is a natural person and who uses district heating mainly outside business operations,
the term district heating contract denotes a contract for the distribution in pipelines of a heat carrier for heating and for the sale of the heat distributed.

Section 3 That which is prescribed in this Act regarding district heating undertakings shall also apply to natural persons who conduct a district heating operation.

Section 4 Contractual conditions which in comparison with the provisions of this Act are disadvantageous to a consumer are ineffective against the consumer.

Price information

Section 5 A district heating undertaking shall ensure that information about the district heating undertaking's prices for district heating and for a connection to the district heating operation and about how a price is determined is readily available to district heating customers and the general public. If different prices apply for different categories of district heating customer, the district heating undertaking is under the same obligation as regards the principles employed for dividing district heating customers into different categories.

Price information must be correct and clear.

The Government or the authority appointed by the Government may issue regulations concerning the obligation to provide price information to the general public under the first and second paragraphs.

The district heating contract
Information in a district heating contract

Section 6 A district heating contract shall include information on

1. the district heating undertaking's obligations in relation to the district heating customer,
2. the price of the district heating and how it is determined,
3. where the district heating customer can find information on the district heating undertaking's prices for district heating,
4. the term of the contract,
5. for a contract with a fixed term, the provisions applicable regarding extension of the contract,
6. metering the quantity of heat energy supplied, reporting the results of this metering to the customer and debiting the customer,
7. whether the contract allows a district heating undertaking to make a unilateral amendment of a contractual condition and on the preconditions for the district heating undertaking being allowed to make such an amendment,
8. the termination conditions for the contract,
9. the district heating undertaking's liability to pay compensation if it does not fulfil the contract,
10. who will bear the restoration costs following
 - a) a connection to the district heating operation,

b) maintenance work to pipelines, or
c) the removal of a connection, and
11. the opportunity to request negotiation and to apply for mediation in accordance with this Act. *Act (2011:934)*.

Section 6a/Enters into force on 1 January 2015/ A district heating undertaking is under an obligation to meter the quantity of heat energy supplied and its distribution over time.

Unless an agreement has been made with the district heating customer regarding a shorter time interval, the quantity of heat energy supplied to a district heating customer's supply point shall be metered once a month.

Unless otherwise agreed with the district heating customer, the district heating undertaking shall report the results of this metering to the customer once a month.

The Government or the authority appointed by the Government issues more detailed regulations regarding metering and reporting. *Act (2011:934)*.

Section 6b/Enters into force on 1 January 2015/ A district heating undertaking's debiting of customers shall relate to metered quantities.

Unless otherwise agreed with the district heating customer, the customer shall be debited at least four times per year.

The Government or the authority appointed by the Government issues more detailed regulations on debiting. *Act (2011:934)*.

Negotiation concerning contractual conditions for district heating

Section 7 A district heating undertaking shall negotiate with a district heating customer who requests negotiations regarding the price for district heating or regarding the capacity at a connection to the district heating operation.

Section 19 provides that the district heating undertaking may have a negotiation obligation also in cases where the undertaking has made a unilateral amendment of the contractual conditions to the disadvantage of the district heating customer.

Section 8 A district heating undertaking's obligation to negotiate with a district heating customer means that the district heating undertaking shall

1. state the reasons for the contractual conditions to which the negotiation relates,
2. provide the district heating customer with sufficient information to be able to assess the reasonableness of the contractual condition, and
3. attempt to reach an agreement with the district heating customer regarding the contractual condition.

Section 9 If negotiations do not lead to agreement, the district heating undertaking shall notify the district heating customer that the negotiations have been concluded and shall state the reasons for the position taken by the district heating undertaking.

This notification may be given verbally at a meeting between the district heating undertaking and the district heating customer. If such a verbal notification is not provided, the district heating undertaking shall notify the district heating customer in writing.

Mediation

Section 10 If negotiations between a district heating undertaking and a district heating customer do not lead to agreement on conditions for district heating, the district heating undertaking or the district heating customer may apply for mediation.

Section 11 An application for mediation shall be submitted to the authority which mediates in accordance with this Act. The application shall have been received by the authority within three weeks from the date on which the district heating undertaking, under Section 9, notified the district heating customer that the negotiations have been concluded.

Section 12 The party applying for mediation must pay an application fee of SEK 1 000 at the same time as submitting the application. A consumer shall instead pay SEK 500.

Section 13 The authority which mediates in accordance with this Act shall make a decision on mediation.

An application for mediation shall only be approved if the authority's assessment is that mediation may lead to an agreement between the district heating undertaking and the district heating customer.

Section 14 An application for mediation shall be dismissed if

1. the applicant has not paid the application fee,
2. the application does not contain a sufficient explanation of the circumstances of relevance to the task of mediation, despite the applicant having been directed to rectify the deficiency, or
3. the application was received by the authority too late.

Section 15 When the assessment of the authority which mediates in accordance with this Act is that there no longer is any reason to continue with mediation, the authority shall conclude the mediation.

The district heating undertaking and the district heating customer shall be notified of a decision to conclude the mediation.

Section 16 The authority which mediates in accordance with this Act may issue those orders that are required for the task of mediation.

Such an order may be made subject to a default fine.

Unilateral amendments of contractual conditions to the disadvantage of the district heating customer

The contract

Section 17 If a district heating undertaking has, under the district heating contract, been granted the right to unilaterally amend the contractual conditions to the disadvantage of the district heating customer, the provisions of Sections 18 to 26 shall apply.

The district heating undertaking's notification obligation

Section 18 If the district heating undertaking makes an amendment of the contractual conditions, the district heating customer shall be notified of the amendment in writing no later than two months prior to the date on which the amended conditions will begin to apply.

The notification shall state the reasons for the amendment and provide information about the district heating customer being entitled to request negotiations, apply for mediation and to give notice terminating the contract.

If the district heating undertaking does not observe the provisions of the first and second paragraphs, the amended conditions may not be applied.

Negotiations regarding the amended conditions

Section 19 A district heating undertaking is under an obligation to negotiate with a district heating customer regarding a unilateral amendment of the contractual conditions to the disadvantage of the district heating customer, provided the customer requests negotiations within three weeks from the date on which the customer was notified under Section 18 of the amended contractual conditions.

Section 20 If the district heating customer has requested negotiations under Section 19, but no agreement is reached between the parties, the amended conditions may begin to apply from the date they are due to begin to apply, though at the earliest three weeks from the date on which the district heating undertaking, under Section 9, notified the district heating customer that the negotiations have been concluded.

This does not apply in cases referred to in Section 21 or if the district heating customer gives notice terminating the contract under Section 23.

Mediation

Section 21 If an application for mediation has been made under Section 10 regarding a unilateral amendment of the contractual conditions to the disadvantage of the district heating customer, but no agreement is reached between the parties, the amended conditions may begin to apply from the date they are due to begin to apply. However, the conditions may begin to apply at the earliest three weeks from the date on which the authority issued the decision to conclude the mediation or, if the application has been rejected, at the earliest three weeks from the date of that decision.

This does not apply if the district heating customer gives notice terminating the contract under Section 24.

Termination of the district heating contract

Section 22 A district heating customer is entitled to give notice terminating the district heating contract if the district heating customer has been notified, under Section 18, of amended contractual conditions.

In order to have effect, the notice of termination shall be made no later than two months from the date on which the customer was notified of the amendment, or such later date as prescribed by Section 23 or 24.

As regards a consumer, the notice of termination shall be deemed to have been made when notification of the termination has been submitted for postal conveyance or dispatched in some other appropriate way.

Section 23 If the district heating customer has requested negotiations under Section 19, but no agreement is reached between the parties, the district heating customer is entitled to give notice terminating the contract no later than three weeks from the date on which the district heating undertaking, under Section 9, notified the district heating customer that the negotiations have been concluded.

Section 24 If an application for mediation has been made under Section 10 regarding a unilateral amendment of the contractual conditions to the disadvantage of the district heating customer, but no agreement is reached between the parties, the district heating customer is entitled to give notice terminating the contract no later than three weeks from the date on which the authority issued the decision to conclude the mediation or, if the application has been rejected, no later than three weeks from the date of that decision.

Section 25 If a district heating customer gives notice terminating a contract under Section 22, 23 or 24, the contract ceases to apply three months from the date of the notice of termination.

The amended contractual conditions may not be applied during the period of the notice of termination.

Section 26 A district heating customer may give notice terminating a district heating contract under Section 22, 23 or 24 without any costs, fees or other obligations being imposed as a consequence of the notice of termination.

Distribution of district heating to consumers Discontinuation of distribution in the event of a breach of contract

Section 27 The distribution of district heating to a consumer may be discontinued if the consumer has neglected his obligations under the contract and this neglect constitutes a fundamental breach of contract. However, the distribution may only be discontinued if the consumer does not comply with a written demand to fulfil his obligations under the contract within a specified and reasonable period.

If the neglect relates to something other than the consumer not having paid according to the contract, the written demand shall contain notification that the distribution of district heating may be discontinued in the event of non-compliance with the demand.

If the circumstances give cause to anticipate that a discontinuation of the distribution may entail personal injury that is not insignificant or substantial property damage, the distribution of district heating may not be discontinued. However, this does not apply if the consumer has acted in an improper manner.

Section 28 If a consumer has not made payment according to the contract, the distribution of district heating may be discontinued if, in addition to that which is stated in Section 27, first and third paragraphs,

1. the claim of the district heating undertaking is undisputed,
2. the consumer has not complied with the written demand to pay the claim and the consumer has subsequently been served a written reminder to make payment within three weeks from this service,
3. the reminder included information that the distribution of district heating may be discontinued if the claim is not paid, and
4. a message concerning the content of the reminder has been sent to the Social Welfare Committee in the municipality where the consumer has the district heating distributed.

The distribution of district heating may not be discontinued if the claim has been paid or the Social Welfare Committee, within the time stated in the first paragraph, item 2, has notified the district heating undertaking that the Committee will pay the claim.

Section 29 Notices and messages as referred to in Section 28 shall be submitted in accordance with a standard form determined by the Government or the authority appointed by the Government.

Section 30 A district heating undertaking is entitled to reasonable compensation from a consumer for costs caused by measures referred to in Sections 27 and 28.

Discontinuation of distribution for safety reasons, etc.

Section 31 A district heating undertaking may discontinue the distribution of district heating to a consumer in order to implement a measure aimed at

1. avoiding personal injury or substantial property damage,
2. extending the district heating operation, or
3. ensuring good distribution security.

The discontinuation may not last longer than is necessary to implement the measure.

The district heating undertaking shall notify the consumer of a forthcoming discontinuation in good time if the district heating undertaking can anticipate that this discontinuation will be not be short-term. The consumer shall be notified personally or, if it is appropriate, by public notice.

Liability of district heating undertakings to pay compensation

Section 32 A district heating undertaking shall pay compensation for damage or injury that a consumer is caused by the distribution of district heating being discontinued owing to the neglect of the consumer unless the distribution of district heating may be discontinued under Section 27 or 28.

Section 33 A district heating undertaking shall pay compensation for damage or injury that a consumer is caused by the distribution of district heating being discontinued without the discontinuation being due to the neglect of the consumer and without the district heating undertaking being entitled to discontinue the distribution under Section 31, first paragraph.

The same applies to damage or injury that a consumer is caused by

1. a discontinuation as referred to in Section 31, first paragraph lasting longer than is necessary to implement the measure, or
2. the district heating undertaking not, under Section 31, third paragraph, notifying the consumer of a forthcoming discontinuation as referred to in Section 31, first paragraph.

However, the district heating undertaking is not liable to pay compensation for damage or injury if the district heating undertaking shows that the discontinuation in the distribution of district heating results from an impediment outside the control of

the district heating undertaking and which it could not reasonably be expected to have anticipated and the consequences of which it could neither have reasonably avoided or overcome.

If the discontinuation results from a party that the district heating undertaking has engaged to perform maintenance, repair or similar work, the district heating undertaking is only relieved from liability to pay damages if the party engaged would be relieved from liability to pay damages under the third paragraph.

Section 34 Damages under Sections 32 and 33 cover compensation for expenses and loss of income and other loss.

Section 35 If the liability to pay damages to a consumer under Sections 32 and 33 is unreasonably onerous considering the financial circumstances of a district heating undertaking, the damages may be adjusted according to what is reasonable.

When making the assessment of whether the liability to pay damages is unreasonably onerous for the district heating undertaking, consideration shall also be given to any existing insurance and opportunities for insurance, the capacity of the district heating undertaking to anticipate and prevent the damage or injury as well as any other special circumstances.

Section 36 A right to compensation from the district heating undertaking lapses if the consumer does not notify the district heating undertaking of the claim for compensation within three years from when the damage or injury occurred.

If notice of a claim for compensation has been submitted for postal conveyance or dispatched in some other appropriate way, the notification of the claim shall be deemed to have been made when this was effected.

Negotiations regarding access to pipelines

Section 37 If a district heating undertaking receives a request for access to the pipelines from a party which wishes to sell heat to the district heating operation or use the pipelines for the distribution of heat, the district heating undertaking shall conduct negotiations regarding access with the party making the request. The obligation to negotiate means that the district heating undertaking shall attempt to reach an agreement regarding access with the party which requested such access.

If an agreement regarding access cannot be reached, the district heating undertaking shall state the reasons for access not being granted.

Municipal district heating undertakings

Section 38 If a municipal undertaking as referred to in Chapter 3, Sections 16 to 18 of the Local Government Act (1991:900) conducts a district heating operation, the operation shall be run on commercial principles.

Section 39 Notwithstanding the provisions of Chapter 2, Section 1 of the Local Government Act (1991:900) concerning links to the municipal area or its members, such a municipal undertaking as referred to in Chapter 3, Sections 16 to 18 of the same Act may conduct a district heating operation outside the municipality if it is conducted in geographical proximity to the district heating operation within the municipality and with the aim of achieving appropriate district heating operation.

Accounting of district heating operation

Section 40 A district heating undertaking shall keep separate financial accounts related to district heating operation by producing an annual report for each year.

When accounting for district heating operation, electrical power that has been generated at the same time as heat distributed in the district heating operation is produced is deemed to form part of the operation. The same applies to sales of such electrical power.

The Government or the authority appointed by the Government may issue additional regulations concerning the accounting of district heating operations.

Section 41 A district heating undertaking shall provide details of business and operational data of the district heating operation. Such details shall be provided for

each integrated system of pipelines and plants for the production of the heat distributed in the pipelines if such production forms part of the district heating operation.

If the price of district heating is the same within different systems of pipelines and plants for the production of heat, this information may however refer to the overall operation in them.

The Government or the authority appointed by the Government may issue additional regulations regarding the obligation to provide information.

Section 42 The annual report shall be audited by an auditor.

The audit shall involve an examination of whether the annual report has been produced in accordance with the applicable provisions. The audit must be as detailed and extensive as required by generally accepted auditing standards.

The auditor shall submit a written statement on the audit.

The Government may issue regulations regarding the auditing of the annual report.

Section 43 Details of the operational and business data of the district heating operation together with a certified copy of the annual report and the statement on the annual report audit shall be submitted to the supervisory authority. The information and documents shall have been received by the supervisory authority within seven months from the end of the financial year.

If the district heating undertaking has decided on a continued general meeting of shareholders in accordance with Chapter 7, Section 14 of the Companies Act (2005:551) or a continued general meeting of a co-operative in accordance with Chapter 7, Section 4, third paragraph of the Co-operative Societies' Act (1987:667), the information and documents shall instead have been received by the supervisory authority within nine months from the end of the financial year.

The documents may be transmitted to the supervisory authority electronically.

An electronic original shall be equated to a certified copy.

Charges for delay

Section 44 If the annual report and the statement on the annual report audit has not been received by the supervisory authority in the prescribed manner and within the prescribed time, the district heating undertaking shall pay a charge for delay of SEK 10 000.

If the documents have not been received within two months from notification having been sent to the district heating undertaking that a charge for delay has been levied, the district heating undertaking shall pay a second charge for delay of SEK 10 000.

If the documents have not been received within two months from notification having been sent to the district heating undertaking that a second charge for delay has been levied, the district heating undertaking shall pay a third charge for delay of SEK 20 000.

Section 45 A charge for delay may not be levied following the registration of a decision with the Swedish Companies Registration Office that a district heating undertaking has been adjudicated bankrupt or has entered into liquidation.

If the district heating undertaking has entered into liquidation, this only applies with regard to accounting for the period preceding the liquidation decision.

Section 46 If the district heating undertaking has submitted the annual report and the statement on the annual report audit in time, but the documents have some inadequacy that can easily be rectified, a charge for delay may only be levied if the district heating undertaking has been notified of the inadequacy and has been given an opportunity to rectify it but has not done so within the time stated in the notification.

Such notification may be sent by post to the postal address last notified by the district heating undertaking to the supervisory authority.

Section 47 A charge for delay shall be waived if the failure to submit the annual report or the statement on the annual report audit appears to be excusable in view of circumstances over which the district heating undertaking was not able to have control. The charge for delay shall also be waived if it appears manifestly unreasonable to impose it.

The provisions concerning waiver shall be taken into account even if no application for waiver has been presented, if there is cause to do so considering that which has been established in the matter.

Section 48 If a charge for delay has not been paid after a demand for payment, the charge shall be handed over for collection. Provisions concerning collection are contained in the Act (1993:891) on Collection of State Debts, etc.

Enforcement in accordance with the Enforcement Code may take place in connection with collection. A decision on a charge for delay may be enforced even if it has not entered into final legal force.

Handing over for collection is not required if the State's claim for the charge for delay is trivial.

Section 49 If a district heating undertaking is entitled to repayment of the charge for delay on the grounds of a decision by a court, interest shall be payable on the repaid charge for delay as of and including the month after which such charge for delay was paid up to and including the month when it was repaid. In matters concerning the size of the interest amount, Chapter 65, Section 4, third paragraph of the Tax Procedures Act applies (2011:1244). *Act (2011:1423)*.

Section 50 Matters relating to charges for delay shall be considered by the supervisory authority.

Section 51 Charges for delay accrue to the State.

Supervision

Section 52 § The supervisory authority shall exercise supervision of the district heating undertaking's compliance with the provisions of Sections 5 to 9, 18 to 21, 25 to 29, 31 and 37 to 43.

The supervisory authority may issue the orders that are necessary to ensure compliance with these provisions. Such an order may be made subject to a default fine.

Section 53 The supervisory authority is entitled upon request to obtain the information and gain access to the documents that are necessary for supervision. Such a request may be made subject to a default fine.

Appeals

Section 54 Decisions on orders subject to a default fine under Section 16, second paragraph and Section 52, second paragraph, requests under Section 53 that have been made subject to a default fine and on charges for delay may be appealed against at a general administrative court.

Leave to appeal is required in connection with appeals to the Administrative Court of Appeal.

Appeals may not be made regarding other decisions in accordance with this Act.

Transitional provisions

2008:263

1. This Act enters into force on 1 July 2008.
2. The provisions contained in Sections 17 to 26 shall apply to such unilateral amendments of contractual conditions that shall begin to apply after 30 June 2008.
3. In matters concerning such unilateral amendments of contractual conditions that shall begin to apply after 30 June 2008, the district heating undertaking is, in

addition to that prescribed by Section 19, is under an obligation to negotiate if the district heating customer requests negotiations no later than 22 July 2008.

4. The provisions of Sections 27 to 31 shall apply to such discontinuation of the distribution that occurs after 30 June 2008.

5. The provisions of Section 41 shall apply first for the financial year commencing as soon as possible after 30 June 2008.

6. The provisions of Sections 44 to 51 shall apply to annual reports and statements on annual report audits that refer to any financial year commencing as soon as possible after 30 June 2008.

2011:934

This Act enters into force on 1 January 2012 as regards Section 6 and otherwise on 1 January 2015.

2011:1423

This Act enters into force on 1 January 2012 and shall apply to interest relating to any period commencing on or after 1 January 2013.