

Data Act and the measurement of consumption data in buildings by metering service providers for heat cost allocation and resident information (submetering)

The Data Act, which entered into force in January 2024, regulates the exchange and use of data that is – *inter alia* – generated or collected during the operation of a so-called connected product.

Connected products are objects that collect data about their use or environment and transmit them electronically, e.g. connected cars or smart home devices. When it comes to the measurement of heat consumption data, wireless measurement devices, e.g. heat cost allocators, heat meters and water meters, are connected products.

With regard to these products, Metering Service Providers (MSPs) have to comply with design and information obligations under the Data Act:

- Data recorded during the use of wireless measurement devices placed on the market as of September 2026 must be accessible to the user directly (e.g. on the device) or indirectly (e.g. via a web portal) (Design Obligation, Art. 3 para. 1 Data Act).
- As of September 2025, before purchasing or renting such a product from the MSP, users must be informed, among other things, about what type of data are generated and how they can be accessed (information obligation, Art. 3 para. 2 Data Act).
- The user is the building owner (or its manager) who has concluded a purchase or rental agreement with the MSP for the metering technology.

In addition and beyond the Design Obligation, the Data Act gives the user the right to request access to data either directly or for a third party authorised by the user (Art. 4 and 5 Data Act). However, such individual requests for access may only be directed towards the so-called data holder, a term which does not include MSPs:

- According to Art. 2 No. 13 Data Act, “data holder” means a person that has ‘retrieved or generated data during the provision of a related service’. When

recording consumption values for information and billing purposes, MSPs do not provide connected services, as they do not influence the functioning of the metering technology. Therefore, MSPs do not qualify as data holders under the law and are not subject to the obligation to provide data individually to the user or a third party nominated by the user.

Summary:

1. Metering Service Providers must in future comply with the design and information obligations of the Data Act when selling or leasing metering technology.
2. However, the Data Act does not give a right to request individual access to (submetering) data from the Metering Service Providers.