

WATER INDUSTRY (SCOTLAND) ACT 2002

EXPLANATORY NOTES

THE ACT

Part 3 – Scottish Water

Section 41 – Duties and powers relating to finance

104. This section updates the duties at section 83 of the 1994 Act. In common with the other sections in the Act dealing with Scottish Water's finances, it does so taking account as appropriate of the Public Finance and Accountability (Scotland) Act 2000 and the introduction of resource budgeting and accounting in the public finances.
105. Subsection (1) effectively requires Scottish Water taking one year with another to ensure that it has sufficient income to meet its expenditure. Subsection (2) gives the Scottish Ministers power, by order, to set Scottish Water minimum rates of return as measured against the value of its average net assets that it must achieve. Subsection (3) provides for the Scottish Ministers to place Scottish Water under specified duties of a financial nature. But if such a duty replaces a duty to achieve a rate of return set under subsection (2), the duty must be set out in an order which will be subject to approval of the Scottish Parliament. Subsection (4) gives the Scottish Ministers flexibility as to the periods to be covered by and the content of a duty imposed by them under subsection (3).
106. Subsection (6) requires Scottish Water to ensure that its charges make a proper contribution to the cost of discharging its duties in light of its present and likely future circumstances and of any duty placed on it by subsections (2) or (3).
107. An order under subsection (2) must be made by statutory instrument and is subject to negative procedure in the Parliament. An order under subsection (5) must be made by statutory instrument and is subject to affirmative procedure in the Parliament (see section 68).