

# **WATER INDUSTRY (SCOTLAND) ACT 2002**

---

## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 4 – Miscellaneous and General**

##### ***Section 63 – Register of trade effluents: confidential information***

152. This inserts a new section 37C into the 1968 Act which enables a person to apply to Scottish Water to have commercially confidential information which might otherwise be registered in the Register of Trade Effluents under section 37A of the 1968 Act withheld from that Register. Information is commercially confidential for the purposes of the new section if its publication in the Register would prejudice to an unreasonable degree the commercial interests of the applicant or any other person (subsection (9)).
153. If Scottish Water determines that information is commercially confidential it will withhold the information from the Register (subsection (1)). If Scottish Water fails to make a determination within 21 days of a request to do so, or such other period as may be specified by order, it is treated as having determined the information is commercially confidential (subsection (2)). Where Scottish Water determines the information is not commercially confidential the information must not be entered in the register for a period of 21 days from the notification of that determination (subsection (3)). The Scottish Ministers may by direction provide that in the public interest specified information or descriptions of information must be included in the Register regardless of whether the information is commercially confidential (subsection (4)). Information excluded from the register ceases to be regarded as commercially confidential after 4 years following the determination unless Scottish Water determines on the application of the person providing the information that it is still commercially confidential (subsection (5)).
154. An order under the new section must be made by statutory instrument and is subject to negative procedure in the Parliament (see subsection (8)).