

# **WATER SERVICES ETC. (SCOTLAND) ACT 2005**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2: Provision of Water and Sewerage Services**

##### **Scottish Water: water and sewerage services undertaking**

##### ***Section 14: Financing, borrowing and guarantees***

58. Section 14 makes provision in relation to the funding of the undertaking established under section 13, and confers order-making powers on the Scottish Ministers to prescribe circumstances in which grants may be made to the undertaking, sums may be lent to it, financial obligations may be guaranteed in respect of it and in which equity may be provided to it. Section 34 of the Act provides that the order-making powers in subsections (1), (2), (6) and (9) of section 14 are subject to negative procedure in the Parliament.
59. Subsections (1) and (2) make provision for the Scottish Ministers to make grants to the undertaking, and for the undertaking to borrow from the Scottish Ministers and not (subject to the exception in subsection (4)(b)) from any other person, except Scottish Water. In each case, the circumstances in which this may occur and the amounts of any grant or loan will be specified in an order, and will be subject to the consent of Scottish Water.
60. Subsection (3) provides that in any financial year, the net amount (as defined in subsection (4)) of sums borrowed from the Scottish Ministers by the undertaking must not exceed the amount specified for that year in a Budget Act.
61. Subsection (5) provides that any loans made by the Scottish Ministers under subsection (2)(a) to the undertaking are to be repaid at such times and by such methods, as Ministers may from time to time specify; and Ministers can also specify the times and rates at which interest on such loans is to be paid.
62. Subsection (6) provides for an order-making power for Scottish Ministers to specify the circumstances in which they may guarantee a financial obligation entered into by the undertaking under subsection (4)(b), such as an overdraft or similar temporary borrowing arrangement. Subsection (7) provides that, immediately after a guarantee is given under subsection (6), the Scottish Ministers must lay a statement of the guarantee before Parliament. Subsection (8) provides that where any sums are paid out in fulfilment of a guarantee, the undertaking must repay to Ministers such amounts (with interest), as Ministers may specify.
63. Subsection (9) provides another order-making power for Scottish Ministers to specify circumstances in which they may, with the consent of Scottish Water, subscribe for share or loan capital of the undertaking.

*These notes relate to the Water Services etc. (Scotland) Act  
2005 (asp 3) which received Royal Assent on 17 March 2005*

64. Subsection (10) provides that any grants or loans made, or guarantees or subscriptions for share or loan capital given to the undertaking under section 14 are to be subject to such conditions as Scottish Ministers consider it appropriate to impose.