

PUBLIC FINANCE AND ACCOUNTABILITY (SCOTLAND) ACT 2000

EXPLANATORY NOTES

THE ACT

Section 9: Keeper of the Registers of Scotland: Financial Arrangements

General Purpose

34. The purpose of this section is to put in place financial arrangements for the Registers of Scotland (the Department of the Keeper of the Registers of Scotland) having broadly the same effect as the Trading Fund arrangements under which it currently operates. The Registers of Scotland Executive Agency Trading Fund was established in 1996 by an Order under the [Government Trading Funds Act 1973 \(the Register of Scotland Executive Agency Trading Fund Order 1996 \(S.I. 1996/1004\)\)](#). The Trading Fund is continued in existence until 31 March 2000 by transitional provisions put in place under the Scotland Act (see article 22 of the [Scotland Act 1998 \(Transitory and Transitional Provisions\)\(Finance\) Order 1999 \(S.I. 1999/441\)\)](#). Under the arrangements in this section the Keeper will be authorised to keep and apply the income from fees (although the level of the fees will be controlled by the Scottish Ministers under existing legislation). The Scottish Ministers will be able to supply capital to the Keeper, either by loan or by the issue of public dividend capital (broadly equivalent to equity finance). The Keeper will be put under a financial duty by the Scottish Ministers (currently a 6% return on net assets).

Subsection (1)

35. This ensures that the Keeper of the Registers of Scotland is able to retain certain sums of money paid to him and use these to meet his expenditure. He is able to retain money that is paid to him in respect of the exercise of any of his functions.

Subsection (2)

36. This enables the Scottish Ministers to issue public dividend capital to the Keeper.

Subsection (3)

37. This enables public dividend capital deemed to have been issued to the Registers of Scotland Executive Agency Trading Fund in terms of the Government Trading Funds Act 1973 to be treated as if it had been issued by the Scottish Ministers under this Act. This provision is to ensure that the same treatment is applied to sums of public dividend capital deemed, before commencement of this Act, to have been issued to the Trading Fund under the existing arrangements and those issued under the Act after this Act comes into force.

Subsection (4)

38. This provision requires the Keeper to make payments into the Scottish Consolidated Fund of any sums the Scottish Ministers may determine as appropriate by way of a return of the public dividend capital issued or deemed to have been issued to the Keeper by the Scottish Ministers under the Act. It also requires the Keeper to pay into the Scottish Consolidated Fund principal repayments or interest in respect of sums deemed to have been issued to the Registers of Scotland Executive Agency Trading Fund when the Fund was established. The outstanding liabilities, as at 1 July 1999, of the Trading Fund in respect of these sums were transferred to the Scottish Ministers on that date by virtue of the [Scotland Act 1998 \(Transfer of Borrowing of the Registers of Scotland Executive Agency Trading Fund\) Order 1999 \(S.I. 1999/1596\)](#). The Scottish Ministers are required to repay these liabilities to the National Loans Fund by virtue of that Order and section 71(6) of the Scotland Act. This provision enables this outstanding debt to continue to be serviced as part of the Registers of Scotland's expenditure.

Subsection (5)

39. This enables the Scottish Ministers to lend money to the Keeper on terms and conditions defined by them.

Subsection (6)

40. This ensures that interest charged on a loan under subsection (5) is not less than the lowest rate of lending from the National Loans Fund that applies on the day the loan is made. This replicates provision set out in section 68(1) of the Scotland Act 1998.

Subsection (7)

41. This subsection requires the Keeper to pay to the Scottish Ministers certain sums that relate to the liabilities of the Scottish Ministers. The sums concerned are payments made by the Scottish Ministers in terms of section 51 of the Scotland Act 1998 in relation to the Keeper himself and to members of staff of the Scottish Administration who have been assigned to assist the Keeper. These sums include salary, allowances and contributions to pensions schemes.

Subsection (8)

42. This provision enables the Scottish Ministers to specify the financial objectives the Keeper must achieve in exercising his functions.

Subsection (9)

43. This requires that financial objectives should be determined so as to ensure that the sums received by the Keeper are sufficient to meet his expenditure, taking one year with another. The provision is intended to allow for payments and expenditure in any single financial year not to be equal, but for them to be broadly equal over a period of years.

Subsection (10)

44. This makes clear that expenditure in this section means expenditure by the Keeper in exercise of his functions and that it includes payments he is required to make under this section. This is the expenditure which the Keeper will be required to meet out of his income.

Subsection (11)

45. In view of the detailed financial arrangements for the Keeper of the Registers of Scotland put in place by section 9(1) to (10), this subsection ensures that the general

*These notes relate to the Public Finance and Accountability (Scotland)
Act 2000 (asp 1) which received Royal Assent on 17 January 2000*

provisions of Part 1 of the Act (with the exception of section 6) do not apply to the use of resources by, and the cash expenditure and receipts of, the Keeper.