

SCOTTISH NATIONAL INVESTMENT BANK ACT 2020

EXPLANATORY NOTES

THE ACT

Part 2 – Operational matters

Scottish Government financing of the Bank

Section 24 (Power to capitalise)

29. Section 24 gives the Scottish Ministers a power to capitalise the Bank by providing equity or loan capital.
30. Section 25 (Requirement to get State aid approval before significant capitalisation)
31. Section 25 provides that the Scottish Ministers may not spend more than the authorised minimum on capitalising the Bank unless any approvals necessary under State aid rules have been obtained. (Section 28 defines State aid rules.)
32. Under section 763 of the Companies Act 2006, the minimum share capital needed to establish a public limited company is £50,000. Section 16 permits sufficient capitalisation to allow the Scottish Ministers to establish the Bank as a public limited company. However, State aid approval is required to capitalise the Bank to the level which would enable it to fulfil its object and ancillary objects. This approach allows for sufficient flexibility to allow the Bank to be established and resourced so that it is able to undertake the entirety of its functions once State aid approval is given.

Section 26 (Power to finance)

33. Section 26 provides that the Scottish Ministers may provide such finance to the Bank as they consider necessary and that this includes taking and paying for shares in the Bank as well as the giving of grants, loans and guarantees.

Section 27 (Requirement to get State approval for financing)

34. Section 27 provides that the Scottish Ministers may not provide finance to the Bank by means of a grant unless any approvals necessary under State aid rules have been obtained. (Section 28 defines State aid rules.)

Section 28 (Meaning of State aid rules)

35. Section 28 makes provision as to the meaning of State aid rules and ensures that these align with domestic State aid rules following the UK's exit from the European Union.