

# LOCAL GOVERNMENT ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: Financial Administration**

##### **Summary**

41. **Sections 25 to 29** impose new duties on local authorities about how they set and monitor their budgets. They are designed to help ensure that authorities make prudent allowance for risk and uncertainties in their budgets, and regularly monitor their finances during the year. Largely they leave discretion with the authorities about the allowances to be made and action to be taken. But section 26 is a reserve power for the Government or National Assembly for Wales to lay down the minimum reserves that local authorities must allow for when they set their budgets.
42. The objective of section 30 is to facilitate remedial action when an authority's expenditure is forecast to exceed its resources and its chief finance officer has made a formal report to that effect.

##### ***Section 25: Budget calculations: report on robustness of estimates etc***

43. Local authorities decide every year how much they are going to raise from council tax. They base their decision on a budget that sets out estimates of what they plan to spend on each of their services. Because they decide on the council tax before the year begins and can't increase it during the year, they have to consider risks and uncertainties that might force them to spend more on their services than they planned. Allowance is made for these risks by:
  - making prudent allowance in the estimates for each of the services, and in addition
  - ensuring that there are adequate reserves to draw on if the service estimates turn out to be insufficient.
44. This section requires an authority's chief finance officer to make a report to the authority when it is considering its budget and council tax. The report must deal with the robustness of the estimates and the adequacy of the reserves allowed for in the budget proposals, so members will have authoritative advice available to them when they make their decisions. The section requires members to have regard to the report in making their decisions.

##### ***Sections 26 and 27: Minimum reserves***

45. **Section 26** gives the Secretary of State power to determine minimum reserves for local authorities in England by regulation. The National Assembly for Wales is given a corresponding power in relation to local authorities in Wales. The minimum applies to the budget process: authorities would have to ensure that their budget made allowance for reserves at least equal to the minimum. Nothing in the section would prevent these reserves being used during the year, even if as a result they fell below the minimum.

However, if it was forecast that this was likely to happen, section 27 requires the chief finance officer to report to the authority, at the time the following year's budget and council tax is being considered, to explain the reasons and any action considered necessary to prevent a repetition.

***Sections 28 and 29: Budget monitoring: general; Budget monitoring: Greater London Authority***

46. Local authorities need to monitor their income and expenditure against their budget, and be ready to take action if overspends or shortfalls in income emerge. These sections make this a statutory duty. If monitoring establishes that the budgetary situation has deteriorated, authorities are required to take such action as they consider necessary. This might include, for instance, action to reduce spending in the rest of the year, or to increase income, or the authority might decide to take no action but to finance the shortfall from reserves.
47. Distinct budget procedures apply to the Greater London Authority and its functional bodies, and so separate provision for these organisations is made in section 29. The monitoring duty is placed on the functional bodies and (for its own budget only) on the GLA. But, because the GLA is responsible for setting the budgets of the functional bodies, when one of these bodies identifies a budget deterioration the section requires it to report the fact and the action it proposes to take in response to the Mayor and the Chair of the London Assembly.

***Section 30: Authorisation of agreements during the prohibition period***

48. Under section 114 of the Local Government Finance Act 1988 a local authority chief finance officer is under a duty to report to the authority in certain circumstances. One of these circumstances is when it appears to the officer that the expenditure of the authority in a financial year is likely to exceed the resources available to meet the expenditure.
49. Under section 115 of the Act such a report has to be considered by the full council within 21 days of its issue. During the period from the issue of the report until the day after the council meeting the authority is prohibited from entering into any new agreements involving expenditure by the authority.
50. This section amends section 115 to allow the chief finance officer to except certain agreements from this prohibition. The exception applies to agreements which the officer considers likely to deal with the situation that led to the report being made or prevent it happening again. To benefit from the exception an agreement has to be authorised in writing by the chief finance officer, who must state why it is considered the agreement is eligible for exemption.