

# LOCAL GOVERNMENT IN SCOTLAND ACT 2003

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## EXPLANATORY NOTES

### THE ACT – SECTION BY SECTION

#### Part 8 – Miscellaneous

##### *Section 42 – Paid time off for councillors not to be a political donation*

106. Where any salary is paid to an employee by an employer in respect of time off taken in order to undertake duties as a local councillor, this section ensures that the value of the salary is not classified as a political donation under Schedule 7 to the [Political Parties, Elections and Referendums Act 2000 \(c.41\)](#).
107. The time off for which pay will not count as a political donation is time off for a widely defined range of duties, including the doing of anything for carrying out the functions of the council to which a councillor has been elected and the doing of anything for carrying out any functions of another council where that other council has delegated the discharge of those functions to the councillor's council.
108. The section will apply retrospectively, so that any pay for time off which may have been granted to councillors since 16<sup>th</sup> February 2001, when the requirements of Schedule 7 to the 2000 Act came into force, will no longer be considered a political donation.
109. The Electoral Commission is required by this section to remove from the register of recordable donations any entry they would not have had to make had this section been in force on 16 February 2001.

##### *Section 43 - Remote participation in and calling of local authority meetings*

110. This section provides that in addition to the traditional form of meeting with members being present in one place, meetings of a local authority may be conducted in any way in which each member can communicate with each other, for example by video-conference. *Subsection (2)* provides that such meetings shall be conducted only on the direction of the convenor (or deputy convenor in the absence of the convenor) of the authority, committee, or sub-committee concerned. *Subsection (4)* allows summons to meetings to be delivered by means other than post or hand-delivery, for example, by e-mail.

##### *Section 44 – Travel concessions*

111. This section equalises for both men and women the age of eligibility for concessionary travel at age 60. This ensures that men and women aged 60 and over will be entitled to the same concession travel arrangements within their local transport area. This section amends section 93(7) of the [Transport Act 1985 \(c.67\)](#) to remove the differential in eligibility for concessionary travel between men and woman. Similarly, it amends the definition of “eligible persons” under section 68(7) of the [Transport \(Scotland\) Act 2001 \(asp 2\)](#) and gives the Scottish Ministers power to make an order providing for the age of eligibility for concessionary travel to rise in due course in line with Schedule 4 to the [Pensions Act 1995 \(c.26\)](#).

***Section 45 – Power to charge for vacant places on school buses***

112. This section amends section 51 of the [Education \(Scotland\) Act 1980 \(c.44\)](#) to allow a local authority to charge a sum it considers appropriate for the use by pupils of vacant places on school buses.

***Section 46 – Power to provide funds for speed cameras etc.***

113. This section enables the Scottish Ministers to provide funding to local authorities in whatever capacity (e.g. local roads authority, district court, police authority) and also joint police boards specifically for purposes connected to the prevention, detection and enforcement of speeding and red light offences.
114. The payments can be made either direct to the local authority or joint police board, or to another local authority (or board) on their behalf. This provision is required because many safety camera partnerships involve several local authorities, with the payments on behalf of the whole partnership being directed to a lead authority.
115. The Scottish Ministers are entitled to determine the timing, manner and any conditions under which the payments are made. This will enable the Scottish Ministers to set requirements for safety camera partnerships, for example, on the location and signing of speed cameras.

***Section 47 - Power to provide funds for private water supplies***

116. This section places a duty on local authorities to pay grants towards the improvement of private water supplies in accordance with conditions to be prescribed in regulations. It also places a duty on the Scottish Ministers to provide grants to local authorities in respect of their reasonable expenditure under this section.

***Section 48 – Delegation of Strathclyde Passenger Transport Authority functions to officials***

117. This section widens the powers of delegation afforded to Strathclyde Passenger Transport Authority. At present it may only delegate to its Chairman or to a sub-group of the Authority. The section will also give it powers to delegate as it may see fit to its Secretary, or to other officials appointed by the Authority.

***Section 49 – Parliamentary procedure for regulations about vehicles used as taxis and private hire cars***

118. This section requires all regulations made by the Scottish Ministers under sections 20(1) and 20(2) of the [Civic Government \(Scotland\) Act 1982 \(c.45\)](#) to be subject to scrutiny by the Scottish Parliament.

***Section 50 – Suspension of requirement to advertise principal teacher posts***

119. This section amends the [Education \(Scotland\) Act 1980 \(c.40\)](#) in connection with the advertising of principal teacher posts. To enable the introduction of a new career structure for the teaching profession without following the advertisement and appointment procedures required by that Act, the provisions in that Act requiring Principal Teacher posts to be advertised are suspended for 1 year.

***Section 51 – Arrangements and agreements with bodies corporate***

120. [Section 51](#) provides that where a local authority enters into any arrangement or agreement with a body corporate, it must comply with any code of practice or document which the Scottish Ministers specify by direction is appropriate. *Subsection (2)* provides that such a direction may include requirements relating to the duty of Best Value described in [section 1](#).

***Section 52 – Guidance on contractual matters***

121. **Section 52** provides that the Scottish Ministers may issue guidance on contractual matters to which local authorities must have regard when entering into contracts.

***Section 53 – Qualification of and assistance for Accounts Commission auditors***

122. This section amends the provisions in the 1973 Act relating to appointment of local authority auditors to allow a wider group of qualified persons from within the UK or European Economic Area to undertake this role. In addition this section provides for a scheme of delegation whereby auditors approved by the Accounts Commission for Scotland may delegate some or all of their functions to another individual or group where approval from the Accounts Commission has been sought.

***Section 54 – Accounts Commission’s and auditor’s powers to obtain information from persons other than local authorities etc.***

123. **Section 54** extends the audit arrangements for local authorities (as provided by the 1973 Act) to ensure that they cover any involvement by a local authority in a body corporate, for example, a company.
124. **Subsection (1)** amends section 97B (power of the Accounts Commission to require the furnishing of information and documents) of the 1973 Act to ensure that, where deemed necessary, the Accounts Commission have the authority to obtain relevant information from any body corporate which is discharging functions on behalf of the local authority.
125. **Subsection (2)** amends section 100 (auditor’s right of access to documents) of the 1973 Act to ensure that those charged with the responsibility for auditing a local authority’s accounts have a right of access to the accounts of any body corporate which, by arrangement or agreement, is discharging any of the local authority’s functions on its behalf.

***Section 55 – Auditor’s duty in relation to aspects of best value and community planning***

126. **Section 55** amends the 1973 Act to widen the existing duty of local authority auditors so that they can audit the arrangements local authorities have made to secure Best Value and to initiate, maintain and facilitate the process of community planning.

***Section 56 – Extension of Controller of Audit’s reporting functions to best value and community planning: amendment of section 102 of 1973 Act***

127. This section restates certain of the Controller of Audit’s reporting functions, originally provided by the 1973 Act, and extends them so that they include reports about a local authority’s performance in discharging any of its obligations under Parts 1 (Best Value and Accountability) and 2 (Community Planning).