



# Local Government in Scotland Act 2003

## 2003 asp 1

### PART 3

#### POWER TO ADVANCE WELL-BEING

#### **22 Limits on power under section 20**

- (1) The power under section 20 above does not enable a local authority to do anything which it is, by virtue of a limiting provision, unable to do.
- (2) In subsection (1) above, a “limiting provision” is one which—
  - (a) prohibits or prevents the local authority from doing anything or limits its powers in that respect; and
  - (b) is expressed in an enactment (whenever passed or made).
- (3) The absence from any enactment of provision conferring any power does not of itself make that enactment a limiting provision.
- (4) The power under section 20 above shall not be exercised in a way which unreasonably duplicates anything which may or must be done in pursuance of a function, under any enactment (whenever passed or made), of a person other than the local authority.
- (5) Subsection (4) above does not prevent the exercise of the power under section 20 in a way which duplicates anything of the kind mentioned in that subsection if the person there mentioned consents to that exercise of the power.
- (6) The power under section 20 above does not enable the doing of anything which may be done under the Local Authorities (Goods and Services) Act 1970 (c. 39).
- (7) The power under section 20 above does not enable a local authority to do anything for the purposes of enabling the authority to raise money by levying or imposing any form of tax or charge, by borrowing or otherwise.
- (8) Nothing in subsection (7) above prevents a local authority from—
  - (a) setting and determining amounts of council tax; or
  - (b) subject to subsection (9) below, imposing reasonable charges for anything done by the authority under section 20 above.

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*Status: This is the original version (as it was originally enacted).*

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- (9) The saving in subsection (8)(b) above does not enable a local authority to impose charges in respect of anything done by it in pursuance of any of the following functions—
- (a) functions relating to education in schools;
  - (b) functions relating to the provision of a public library service;
  - (c) functions relating to fire fighting, that is, putting out fires and protecting life and property when fire occurs;
  - (d) functions relating to the registration of elections;
  - (e) functions relating to the conduct of elections;
  - (f) such other functions as may by order be prescribed for the purposes of this subsection by the Scottish Ministers.
- (10) Before making an order under subsection (9)(f) above, the Scottish Ministers shall consult such associations of local authorities and such other persons as they think fit.
- (11) Where, under section 20 above, a local authority imposes any charge, it shall publish its reason for doing so and an explanation of how it arrived at the amount of the charge.
- (12) Any order under subsection (9)(f) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (13) A local authority shall not, without the prior consent of the Scottish Ministers, do anything under section 20 above outside the United Kingdom for the purpose of promoting or improving the economic development of its area.
- (14) Nothing in section 20 above affects section 92(5) of the Housing (Scotland) Act 2001 (asp 10) (by which it is provided that certain assistance, including financial assistance, provided by a local authority for certain housing purposes requires the consent of the Scottish Ministers).