



# Local Government in Scotland Act 2003

## 2003 asp 1

### PART 4

#### ENFORCEMENT AND SCRUTINY

#### **23 Enforcement: preliminary notice**

- (1) Where, on a recommendation having been made to them under section 103D of the 1973 Act as applied by section 4 above, it appears to the Scottish Ministers—
  - (a) that a local authority is not complying or has not complied with its duties under section 1, 13, 15 or, as the case may be, 17 above; and
  - (b) that an enforcement notice is justified,they may service a preliminary notice on the authority.
- (2) Where, without a recommendation having been so made to them, it appears to Scottish Ministers—
  - (a) that a local authority is not complying or has not complied with section 1; and
  - (b) that giving the local authority an enforcement direction is justified in order to protect the public interest from substantial harm,they may serve a preliminary notice on the authority.
- (3) A preliminary notice is a written notice which—
  - (a) informs the authority of its apparent failure to comply with its duties under sections 1, 13, 15 or, as the case may be, 17 above; and
  - (b) requires the authority to submit to the Scottish Ministers, within such time as is specified in the notice, a written response which—
    - (i) states that it has not failed to comply with its duties under section 1, 13, 15 or, as the case may be, 17 above in the respects described in the notice and justifies the statement; or
    - (ii) states it has so failed but gives reasons why they should not give it an enforcement direction.

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government in Scotland Act 2003, Section 23.