

# LOCAL GOVERNMENT ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3: Grants Etc**

##### *Chapter 1: Expenditure Grant*

##### *Sections 31 to 33: Expenditure grant*

51. This new wide-ranging power will enable any Minister to make a grant for any purpose, capital or revenue, to any local authority. It will also enable the National Assembly for Wales to make a grant to any local authority in Wales. Save for in Wales, Treasury consent will be needed in all cases to the making of the grants. The power should largely eliminate the need in future legislation for any further specific grant-making powers. It is designed to allow authorities more flexibility in the use of resources than some existing specific powers, which constrain their use. It is also expected to provide a more convenient means of delivering a number of grants currently made under existing powers. The new power will be used, for example, to make grants in connection with service improvements by local authorities which have entered into local Public Service Agreements with the Government.
52. Grants may be made under this power to a class or category of authority. For example, grants could be made to authorities by reference to performance categories as set out in an order made under section 99(4). The conditions applied to individual grants may be differentiated by reference to these categories or may be different for an individual authority.

##### *Chapter 2: Other Grants etc*

##### *Sections 34 and 35: Best value grant: parishes, Best value grant: communities*

53. In the 2001 Local Government White Paper, the Government announced that, when legislation permitted, it would pay a grant of £30,000 per year to each 'best value' parish in England. It stated that the grant would be intended to cover audit costs and the corporate costs of carrying out work relating to best value, such as the preparation of performance plans and management of reviews. It stated also that the costs of separate best value inspections would continue to be supported through the Audit Commission.
54. The National Assembly for Wales has commissioned a research study into the role and responsibilities of community councils in Wales. This may result in some community councils taking part in the Wales Programme for Improvement which is an in-depth assessment by each authority of its own fitness to achieve continuous improvement across all of its functions. The requirements of the Wales Programme for Improvement are set out in [The Local Government \(Whole Authority Analyses and Improvement Plans\)\(Wales\) Order 2002, SI 2002 No. 886 \(W.101\)](#). The basis for this in primary legislation is sections 3 to 6 of the Local Government Act 1999.

***Section 34: Best value grant: parishes***

55. [Section 34](#) applies to England. It permits the payment by the Secretary of State of grant to best value authorities which, under subsection (1), are defined as any parish council (sometimes known as a “town council”), or parish meeting, subject to the best value duties set out in sections 3 to 6 of the Local Government Act 1999. By virtue of the [Local Government Best Value \(Exemption\)\(England\) Order \(SI 2000/339\)](#), currently only 41 parish or town councils satisfy this criterion.

***Section 35: Best value grant: Communities***

56. [Section 35](#) applies to Wales. It permits the payment of Government grant to best value authorities which, under subsection (1), are defined as any community council subject to the best value duties set out in sections 3 to 6 of the Local Government Act 1999. By virtue of the [Local Government Best Value \(Exemption\)\(Wales\) Order 2000 \(SI 2000/1029\)](#), currently no councils meet this criterion.
57. The rest of the section has a similar structure to that of section 34 (for England, as described above). The main differences are that: the grant is made by the National Assembly for Wales, rather than the Secretary of State; no Treasury consent is required, as the Assembly sets its own budget; there is no equivalent to subsection (9) of section 34 because parish meetings do not exist in Wales.

***Section 36: Grants in connection with designation for service excellence***

58. This power will enable grant to be paid to best value authorities subject to any of the best value duties in sections 3 to 6 of the Local Government Act 1999, in relation to expenses they have incurred in applying for the award of a designation based on excellence in the provision of services. Where a best value authority subject to any of the relevant duties is awarded such designation the power will also enable grant to be paid as a reward for such designation and in relation to expenses incurred or to be incurred by the authority in disseminating information about best practices.
59. In England this power could be used to pay grant to best value authorities subject to the relevant duties that apply for or are awarded beacon status under the Government’s Beacon Council Scheme. Beacon council grants are currently paid by the Secretary of State under the wide general Special Grant making power in section 88B of the Local Government Finance Act 1988.

***Section 37: Emergency financial assistance to combined fire authorities***

60. The purpose of this section is to include Combined Fire Authorities (CFAs) in the list of local authorities in section 155 of the Local Government and Housing Act 1989. This will enable the Secretary of State to pay grant to CFAs in their own right. At present Bellwin grant can only be paid to a CFA's constituent authorities, which finance the CFA in proportion to their council tax bases.

***Sections 38 and 39: Loans by Public Works Loan Commissioners, Payments towards local authority indebtedness***

61. The purpose of these sections is to facilitate the transfer of council housing to registered social landlords. Where a local authority transfers the ownership of its social housing to a registered social landlord, it receives a capital receipt. Section 11 of the Act states that the Secretary of State may make provision, by regulations, about the use of capital receipts. Provision is made in regulations ([The Local Authorities \(Capital Finance and Accounting\) \(England\) Regulations 2003](#)), currently in draft. Under regulation 19 of the draft regulations, (which covers the use of all non-housing receipts and any housing receipts not pooled under regulation 11), receipts may be used to pay for any kind of capital expenditure, or, as the authority prefers, may be used to repay the principal of an amount borrowed or to meet liabilities under credit arrangements.

*These notes refer to the Local Government Act 2003 (c.26)  
which received Royal Assent on 18th September 2003*

62. As a condition of consenting to the transfer, the Department requires authorities to use an amount of provision for credit liabilities equivalent to the reserved part of the housing transfer receipt to repay that part of its debt that is notionally attributable to the housing transferred.
63. It is usual for authorities' debts to be with the Public Works Loan Board, although authorities may have other debts, e.g. with private banks.
64. Normally, the reserved part of the receipt from the disposal of the housing is greater than (and therefore notionally sufficient to repay) the attributable housing debt. In areas of poor housing conditions and low rent the obligation to improve the stock to a decent standard can depress the value of the housing stock and the capital receipt the local authority will receive.
65. Where the net capital receipt is less than the local authority's housing attributable debt, the Department will agree with the local authority that on the condition that the authority extinguishes debt with the Public Works Loan Commissioners ('PWLC') to the level of its net reserved capital receipt, the Department will make a payment to extinguish the remaining housing attributable debt. The Department's payment is dependent on the local authority's payment having been made. The Department's payment is known as an 'overhanging debt payment'.
66. The payments to the PWLC are currently made in reliance on the Appropriation Acts. So far there have been ten payments made in respect of housing transfers in Burnley, Coventry, Calderdale, Blackburn with Darwen, Redcar and Cleveland, St Helen's and Knowsley, Carlisle, Bradford and Walsall.
67. The Appropriation Acts do not, however, provide an appropriate mechanism for continuing payments. No mechanism has been put in place for payments made in Wales to date.

***Section 38: Loans by Public Works Loan Commissioners (PWLC)***

68. **Section 38** will enable the Secretary of State or the National Assembly for Wales to repay (in whole or in part) PWLC debts of certain local authorities in England and Wales who have housing functions. The debts to be repaid could include the amount of 'overhanging debt' by which the notional housing debt with the PWLC exceeds the reserved receipt from the housing transfer.
69. The types of local authorities whose debts may be repaid under section 38 are listed in subsection (5) of that section. They are the types of authority with housing functions: district councils, county councils for areas for which there are no district councils, London borough councils, the Common Council of the City of London, and the Council of the Isles of Scilly. In relation to Wales, they are a county council or a county borough council.
70. **Section 38** allows the PWLC to determine the amount that the Secretary of State or the National Assembly for Wales must pay to extinguish a debt, or by which a payment by the Secretary of State or the National Assembly for Wales reduces a debt.
71. **Section 38** allows the PWLC to refuse to accept a payment which the Secretary of State or the National Assembly for Wales proposes to make.
72. In some cases, where loans at fixed interest rates are repaid, a premium may be charged on early repayment. This could be included by the PWLC as part of the amount required to extinguish a debt under section 38.
73. These provisions will have no added public expenditure or manpower implications in England or Wales. A more general power has hitherto been used to make these payments in England. No such payments have as yet been made in Wales.

***Section 39: Payments towards local authority indebtedness***

74. It is also possible that in future, authorities with non-PWLC housing debts may wish to transfer housing in circumstances where the receipt from the transfer would be less than their housing debt, so that there will be an element of non-PWLC overhanging debt.
75. **Section 39** will enable the Secretary of State and the National Assembly for Wales to make payments to local authorities to enable them to repay their non-PWLC debts. The types of authorities who may receive such payments are defined in section 39, and are the same as those whose PWLC debts may be repaid under section 38.
76. Under section 39, the Secretary of State or the National Assembly for Wales may specify how payments made to a local authority under this section are to be applied by the authority, and may specify which debt or debts are to be reduced or extinguished.
77. Any premium payable on the early repayment of such loans may be included as part of the amount paid under section 39 by the Secretary of State or the National Assembly for Wales to the authorities to extinguish their non-PWLC debts.

***Section 40 and Schedule 2: Local government finance reports: Wales***

78. The National Assembly for Wales gave a commitment in its policy statement 'Freedom and Responsibility in Local Government' (March 2001) to continuously look for ways to improve the timetable according to which information regarding the final revenue settlement for local government is published.
79. Currently, the earliest date which can be achieved for the publication of the Local Government Finance Report in Wales is early January with National Assembly plenary debate in mid January. A key factor in this is the availability of information from the Home Office which is not available in provisional form from England until early December. Even with this timetable, final information as to the funding of police authorities is usually not available until late January and therefore an amending report has to be prepared. This is less than satisfactory for both principal councils and precepting authorities in Wales.
80. **Section 40** and Schedule 2 allow separate determinations to be made so that the report for principal authorities, specified bodies and precepting bodies (other than police authorities) in Wales can be produced in mid-December and a single final report for police authorities in Wales can be produced at the end of January. This will achieve the Welsh Assembly policy objective for principal councils and provide greater certainty and stability for police authorities.
81. **Section 40** and Schedule 2 operate by inserting a new Chapter 3 (revenue support grant: Wales) into Part 5 (grants) of the Local Government Finance Act 1988. They also amend Part 3 of Schedule 8 to that Act, which provides for the distribution of non-domestic rates to be dealt with in local government finance reports. They need to be read with the amendments made by paragraphs 5, 12 to 17 and 22 of Schedule 7 to the Act. In particular, those amendments divide the existing provisions of Part 5 of the 1988 Act into Chapters, with the existing provisions about revenue support grant and local government finance reports (sections 78 to 84C) becoming a Chapter 2 that is to apply to England only. The new Chapter 3 makes provision for Wales that, except for differences introduced at the time of devolution and the new power to make two local government finance reports for a year, is substantially the same as the existing provisions that have become Chapter 2.