



COSLA

The key policy aim of the Local Government in Scotland Act 2003 is to enable the delivery of public services which better meet the expectations of those who pay for and use them.

The purpose of this Guide is to provide a brief, easy-to-read guide to the Act. It is structured to reflect the Act's principal elements, which are:

- a duty to secure Best Value in local government service provision (Part 1);
- a statutory basis for Community Planning to ensure long term commitment to effective partnership working with communities and between local authorities and other key bodies and organisations (Part 2);
- a power to advance well-being to enable local authorities to work in a more innovative and creative way in responding to the needs of their communities (Part 3); and,
- a number of miscellaneous provisions which relate to local government matters (Parts 4-9).

The three main elements of the Act are inextricably linked - the Community Planning process and Best Value framework are intended to support the outcome of improving and promoting the well-being of communities.

The Act itself is framed in relatively general terms, with the accompanying guidance assuming a key role in guiding its practical implementation. This guide has therefore drawn on the draft guidance on Best Value, Community Planning and the Power of Well-being, published in March 2003 for consultation. The formal guidance is expected to be published in summer 2003.

The Act was passed by the Scottish Parliament on 8 January 2003 and received Royal Assent on 11 February 2003. Its main provisions came into effect on 1 April 2003.

The Act is available on the web at: www.scotland-legislation.hmso.gov.uk/legislation/scotland/acts2003/20030001.

PART 1: BEST VALUE AND ACCOUNTABILITY

Part 1 of the Act provides for a new performance and accountability framework for local authorities. Its key elements include:

- a statutory duty of Best Value on local authorities and Police and Fire Joint Boards;
- guidance to be issued to support implementation of Best Value;
- revised audit arrangements to reflect the new duty;
- more scope to engage in trading activities;
- repeal of Compulsory Competitive Tendering (CCT); and,
- revised public performance reporting arrangements.

For the purposes of Part 1, 'local authority' includes all Scottish councils and the Strathclyde Passenger Transport Authority. Part 1 also applies to committees, joint committees and joint boards where the members are appointed by local authorities and to charities for which the trustees are local authorities or their members.

Since this is principally local government legislation, Ministers were advised that it would be outwith the scope of the Act to extend the Best Value provisions across the whole of the public sector. However, they have given a commitment that legislation will be introduced at the earliest opportunity to ensure that all public bodies, including the Scottish Executive itself, are governed by a duty of Best Value. Until these statutory arrangements are in place, Ministers have placed a duty of best value on Accountable Officers through guidance. This means that the Scottish Executive and much of the wide public sector is already under a duty to follow the best value framework.

BEST VALUE

Section 1 of the Act places all local authorities under a duty to secure Best Value. Best Value is defined in loose terms to mean councils achieving continuous improvement in the performance of all their functions. Best Value stresses the need to ensure improvement in the actual outcomes as well as improvement in the process of delivering services.

The Act stresses that in securing continuous improvement in a particular service, councils are expected to maintain a balance between the quality of the service delivered and the cost of delivery. This contrasts with CCT where 'least cost' was the only criterion that was applied.

In maintaining this balance between quality and cost, local authorities will be expected to consider what was formerly the 3Es, but which in the Act has become the 4Es: the efficiency, effectiveness and economy of their actions and how well those actions comply with the requirements of equal opportunities legislation.

Also, the Act requires that action taken by a local authority in meeting the duty of Best Value should contribute to the achievement of sustainable development and promoting an integrated approach to improving the economic, social and environmental well being of a community. This means that any action taken by a local authority which undermines

sustainable development will be considered a failure to fulfil its duty of Best Value.

EQUAL OPPORTUNITIES

Section 59 of the Act also requires Ministers, local authorities and all other bodies required to participate in Community Planning to do so in a manner which encourages equal opportunities and, in particular, the observance of the equal opportunity requirements. Local authorities are also required to encourage equal opportunities when discharging their duty of Best Value and when exercising their power to advance well-being. Section 17(1) of the Act requires that local authorities in their duty to initiate and facilitate Community Planning should, on behalf of Community Planning partnerships, report on actions that have been taken to comply with these duties.

Local authorities will have to consider any guidance issued by Ministers to support the duty of Best Value and any guidance which is recognised as authoritative, such as that issued by the Best Value Taskforce. Draft guidance prepared by Ministers and the Best Value Task Force was issued for consultation in March 2003. It will be amended in the light of responses received and re-issued on a statutory basis.

The guidance will set out the major characteristics which describe a Best Value organisation. However, the guidance will not be prescriptive and each local authority will be free to use it as it considers appropriate. The guidance will cover:

- Commitment and leadership
- Responsiveness and consultation
- Sound governance and management of resources
- Use of review and option appraisal
- Competitiveness, trading and the discharge of authority functions
- Sustainable development
- Equal opportunities arrangements
- Accountability

AUDIT ARRANGEMENTS

The legislation updates the existing powers of the Accounts Commission to take account of local authorities' new duty of Best Value and Community Planning. Its powers to hold public hearings in a local authority area have been extended to addressing a failure by a local authority to pursue Best Value or fulfil its community planning obligations. Part 4 of the Act details the new enforcement and scrutiny arrangements (see below).

The Act also extends the Commission's powers to undertake value for money studies of local authorities' activities, to allow them to study the extent to which they have secured Best Value.

EMPLOYEE, COMMERCIAL AND TRADING ISSUES

The Act substantially revises the Local Authorities Goods and Services Act 1970 and the 1980 and 1988 Local Government Acts (including repeal of the CCT provisions).

The 1988 Act banned local authorities from considering 'non-commercial matters', such as, workforce issues and the conduct of both employers and employees in industrial disputes, during commercial contractual negotiations. The new Act amends the 1988 Act to allow these issues and all equalities issues to be considered in circumstances where they are relevant to:

- the local authority securing Best Value;
- the local authority being satisfied that a contractual partner will be able to comply with the terms specified in the contract; and,
- the extent that staff transfers and other issues relating to the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) are concerned under the contract.

FAIR EMPLOYMENT CONSIDERATIONS

The Act includes a number of provisions designed to ensure employees' interests can be protected when councils are purchasing services from outside contractors or when council staff are outsourced under a contract.

The Act allows authorities to take the employment practices of contractors into account when determining who to purchase services from.

Section 52 of the Act allows Ministers to issue statutory guidance on contractual issues. This will be used to encourage local authorities to secure the preservation of employment rights of ex-local authority staff after transfers to third party contractors have taken place, and to ensure that commensurate terms and conditions are offered to any people who are subsequently recruited to work on the contract.

In addition there are related provisions for Scotland in the Local Government Bill going through the Westminster Parliament, because they relate to employment rights. The Bill requires Scottish councils to obey Ministerial directions which are designed to ensure that TUPE applies when staff transfer to a new employer as part of an outsourcing process, and that pension rights are protected or compensated for.

The Local Authorities (Goods and Services) Act 1970 has been amended to provide a more relaxed framework for the provision of goods and services by local authorities to individuals and other organisations. Rather than being able to trade only with a list of public bodies appended to the 1970 Act local authorities will now be able provide goods and services under a trading agreement to anyone the local authority chooses, although different constraints will apply according to the nature of the other party to the agreement. The well-being (see Part 3 of the Guide) of the area or persons within the area must be considered.

The Act identifies three different forms of trading agreement a local authority can enter into:

- With another local authority - the local authority can build its capacity (i.e. staff services, property and facilities) for the purpose of supporting the agreement, and the income it makes is not subject to restriction.

- With other public authorities or bodies, or contractual partners where the provision is intended to support services provided to the authority through a pre-existing contract; or to bodies serving a public purpose where the provision is to support that public purpose - the local authority must trade from its own surplus capacity in staff services, property and facilities, although the income it makes is not subject to restriction.
- With other trading partners (e.g. private sector) - the local authority must trade from its own surplus capacity in staff services, property and facilities, and the income it makes will be subject to financial limits set by Ministers.

In undertaking trading agreements, councils will be expected to achieve at least a financial break even over a rolling three-year period. Councils will be required to maintain trading accounts for significant trading activities to demonstrate that this has been achieved.

TRADING ACCOUNTS UNDER BEST VALUE - NOT CCT 'BY THE BACK DOOR'

In relaxing the legislative restrictions on councils' trading operations - i.e. making money by exploiting their assets on behalf of other organisations - the Act is intended to allow each local authority to utilise its capacity in a manner that promotes the well-being of its community. However, there was some degree of disquiet within local government regarding the requirement on local authorities to maintain trading accounts. This practice was associated with CCT, where trading accounts had to be kept for each of the 'defined activities' such as building cleaning, roads maintenance etc. The Executive has stressed that the purpose of trading accounts under Best Value is fundamentally different, namely to support accountability; i.e. a means of clearly demonstrating to all stakeholders that decisions made by the authority on the delivery of any trading activities meet the requirements of Best Value.

Section 9 of the Act is not yet in force but it will lift the ban on local authorities undertaking capital building work for others. Local authorities will be free to enter into agreements for the construction or maintenance of any buildings or works.

However, councils' construction activities will be governed by a new regulatory regime. Ministers can issue regulations setting limits for the total amount of construction or maintenance works that councils can undertake for others. They also retain powers to issue regulations that will move buildings maintenance and construction into a prudential framework, intended to balance local authorities' self-interest against the interests of the local economy and the local need for public capital investment.

Local authorities may be required to submit to Ministers at prescribed intervals their buildings programmes and outline how they have kept them under review.

PUBLIC PERFORMANCE REPORTING

The Act introduces a number of changes to the existing arrangements for the publication of performance information

by local authorities. The duty on councils to publish their statutory performance indicators annually in a local newspaper is repealed and superseded by Section 13 of the new Act, which places councils under a duty to make whatever arrangements are necessary to report publicly on their performance.

The Act grants Ministers powers to issue guidance about how local authorities should discharge their performance reporting duty. The Act also grants Ministers powers to issue regulations requiring councils to publish information on finance and performance.

Councils will be free to determine when and to whom any report on performance should be made, although the 30 September deadline for making statutory performance indicators available to the public will continue to apply.

It is hoped that reports will be geared towards the local community rather than the Scottish Executive. The expectation is that councils' performance reports will move beyond a narrow focus on Statutory Performance Indicators (SPIs).

PART 2: COMMUNITY PLANNING

Part 2 of the Act provides a statutory framework for the Community Planning process. Specifically it:

- places a duty on councils to initiate, facilitate and maintain the Community Planning process, including requirements to engage the local community and voluntary organisations and to encourage a range of other organisations to participate in the process;
- requires local authorities to report on their implementation of Community Planning;
- places a duty on other key public bodies to participate in the process;
- places a duty on Ministers to promote and encourage Community Planning;
- grants Ministers powers to issue associated guidance to assist Community Planning partners and partnerships in delivering the benefits from the process and requires those involved to have regard to that guidance; and,

- grants Ministers powers to establish corporate bodies to co-ordinate Community Planning in a given local authority area.

DUTY OF COMMUNITY PLANNING: LOCAL AUTHORITIES

The duty of Community Planning on local authorities, described in Section 15 of the Act, places an emphasis on the council's role in initiating and facilitating the Community Planning process and in driving the process forward.

The duty includes the specific need for councils to take suitable action to encourage the participation of other public bodies and community bodies. Under the Community Planning process, public services must be planned and provided after consultation with community bodies and other public bodies responsible for providing those services, and with the on-going co-operation of those bodies.

Local authorities are encouraged to identify all relevant public bodies operating in their area and strive to ensure that they are all made aware of the Community Planning process and invited to discuss the appropriate level and means of their involvement.

The guidance issued under Section 18 of the Act will set out the framework for Community Planning and the parameters for community engagement in the Community Planning process. It states that consultation alone is not sufficient to ensure effective community engagement and that community engagement in this context must involve consultation, co-operation and participation.

The draft guidance also states that in carrying out its duty of community planning, a local authority should consult and co-operate with a wide range of interests, including:

- community and voluntary organisations;
- community councils fulfilling their role as representatives of their local area;
- equalities groups and interests;
- business, through representative organisations or businesses themselves;

- trade unions; and,
- professional interests.

Also, the Act requires the local authority to invite and encourage other appropriate public bodies, not specifically included in the Act (see below) to participate in the Community Planning process. Public bodies are not defined in the Act but may include, for example, tourist agencies, further and higher educational establishments, bodies with a specific environment remit such as Scottish Natural Heritage or bodies with a UK remit and local presence such as JobcentrePlus.

There is an acknowledgement that there cannot be a single template for the engagement of public bodies because the number and type active in a given local authority area varies across Scotland. For example, an agency with a predominantly rural remit, such as the Forestry Commission, will be particularly relevant in rural areas.

There will be different means of engagement depending on the structure of the Community Planning partnership. Representation at the strategic Community Planning partnership may not always be appropriate. Bodies that have a remit covering a specific community or neighbourhood (such as, registered social housing landlords) may find engagement in local or neighbourhood partnership processes more relevant.

The draft guidance provides more detail of what the duty of community planning will actually entail in practice. It indicates that a local authority, assisted by those bodies subject to a duty to participate, will be responsible for facilitating the process by which the Community Planning partnership:

- develops and sets out a joint vision with agreed objectives for the area, normally in the form of a Community Plan;
- sets out challenging outcomes of performance for the Community Planning partnership along with the contribution expected from individual participants in the partnership towards delivering these key outcomes. These outcomes are expected to reflect both performance in the process of partnership working and outcomes for the partnership related to performance in service improvements;

- identifies and allocates the resources necessary to achieve the agreed outcomes;
- monitors and reports on progress with regard to the agreed outcomes, on what is being done by way of Community Planning and sets out and executes regular evaluation of progress; and,
- in light of monitoring, evaluation and reporting requirements sets out revised actions and outcomes normally as a supplement to the Community Plan.

The draft guidance also indicates that community planning will need to operate at various levels dependent on the issues being addressed. It envisages the process striking a balance between:

- the Community Planning process at the local authority level;
- the Community Planning process operating below that of the local authority at a neighbourhood or more localised level;
- the Community Planning process operating through collaboration between Community Planning partnerships where the issue warrants a more strategic consideration; and,
- national priorities which may be implemented by Community Planning partnerships and the ability of Community Planning partnerships to influence national priorities.

DUTY OF COMMUNITY PLANNING: OTHER AGENCIES

The Act specifies those bodies in addition to local authorities that are under a statutory duty to participate in community planning. These are:

- Health Boards
- Joint Police Boards
- Chief Constables
- Scottish Enterprise
- Highlands and Islands Enterprise
- Strathclyde Passenger Transport Authority
- Joint Fire Boards.

All these bodies will be required to assist the local authority in taking forward the Community Planning process. Ministers may, by order, modify

the list of eligible bodies with a duty to engage in Community Planning.

The Act also places a duty on Ministers to promote and encourage Community Planning when discharging any function that might affect Community Planning. This provision ensures that the Executive and its agencies such as Communities Scotland will be under a duty to support the Community Planning process.

Specifically, as the draft guidance indicates, Ministers, through the Scottish Executive and its Executive agencies, will be expected to:

- promote and encourage the process of Community Planning as the key overarching framework to improve the planning and provision of services;
- take into account the views of the collective Community Planning partnerships in setting policy priorities, particularly on those issues requiring a joined-up approach between a number of bodies; and,
- develop mechanisms within the Executive and its agencies to ensure that they are joined-up in developing policies and performance frameworks and indicators and joined-up in communicating to agencies and/or Community Planning partnerships the means of delivering these policies, whether this is through strategies and plans, sponsorship of its NDPBs or specific projects, funds and initiatives.

REPORTING ON COMMUNITY PLANNING

Councils, as facilitators of the Community Planning process, are required to report on how they have implemented their duty of Community Planning and on what has been done by way of Community Planning in their area.

Councils will be free to determine what form this report takes and how often it should be published. However, they will be required to account for:

- how a local authority has implemented its duties under Section 16 of the Act; this should include reporting on the means of consulting community bodies and other public bodies and a summary of the outcomes of consultation; and,
- the outcomes in service improvement of those bodies participating in the Community Planning process in the area, and evidence and analysis to support this.

Local authorities will have to report to Ministers any information they request on the progress of community planning in their areas. The Act allows for regulations to be issued which would set out more specific reporting requirements if experience shows that this is necessary.

The Act requires those organisations participating in community planning to provide the information the local authority 'may reasonably require' in order for it to fulfil its duty of community planning.

Audit Scotland will work with Community Planning partners to develop a menu of key indicators from which partnerships can select, to support effective performance management and benchmarking. It is not the intention to create a new set of statutory indicators of performance for Community Planning. However, Section 17(9)(c) of the Act, amends Section 1 of the Local Government in Scotland Act 1992 to give powers to the Accounts Commission, if necessary, to require cross-cutting indicators which will demonstrate the action required towards meeting some outcomes from local authorities as facilitators of the process.

It is expected that most local authorities will exercise the option of integrating community planning reports within the public performance reporting framework (see above). Whatever method of reporting is chosen, local authorities are expected to:

- be clear about what information communities would find useful in order for them to form a view of the achievements of Community Planning in the area; and,
- ensure information is reported in a clear and concise manner.

COMMUNITY PLANNING GUIDANCE

Those participating in Community Planning including non-statutory partners will have to consider any guidance given by the Ministers about Community Planning. Ministers are under a duty to consult before issuing guidance.

The draft guidance is presented on two levels:

- guidance on how the legislative provisions should be implemented; and,
- a series of Advice Notes giving supplementary advice on how Community Planning may be implemented. The intention is to update these on a regular basis and to feature examples of good practice as Community Planning develops.

Examples of advice notes that have already been produced to date include:

- National Framework: National Priorities
- Partnership Models and Structures
- Involving the private sector
- Effective Partnership Working
- Effective Community Engagement
- Building Organisational Capacity
- The role of the elected member
- Information Sharing
- Monitoring Progress and Performance

For further information on all this and other aspects of Community Planning visit the Community Planning Taskforce website: www.communityplanning.org.uk

ESTABLISHING CORPORATE BODIES

The Act allows for community planning partners to be constituted as a corporate body; i.e. a legal entity distinct from any one partner. Such bodies would continue to have a co-ordinating function.

Parliament will have powers to approve or reject the formation of corporate bodies, which would only be allowed where broad agreement had been reached by the community planning partners concerned. Broad agreement from the wider participants in the Community Planning partnership will be required before a Minister would proceed with an order. This stops short of requiring unanimity among every participant in a Community Planning partnership, but all of the key agencies involved would need to be in agreement. A corporate body would only be formed where the local authority concerned agreed to be a member.

Ministers will have the ability, through an order-making power, to set out the functions to be undertaken by the corporate body along with the membership of the body and accountability arrangements.

Ministers could not initiate the process or require it to happen. If local authorities and their community partners did not wish to use the power, they would not be required to and partnership arrangements would remain informal.

PART 3: POWER TO ADVANCE WELL-BEING

Part 3 of the Act sets out the provisions relating to the power to advance well being. Specifically it provides for:

- a general power for councils to promote and improve the well-being of their area;
- statutory guidance to provide a clear framework around the legislation; and,

- limitations on how local authorities can apply the power.

POWER TO ADVANCE WELL-BEING

Section 21 of the Act provides local authorities with the new power to do anything they consider likely to promote or improve the well-being of their area, persons in that area, or both of these. It is intended to allow councils to be more pro-active and creative in promoting the well-being of their area, rather than having to identify where a specific legislative power exists before acting. Councils will be expected to use it as a power of first resort, rather than last resort; i.e. where seeking a legislative basis for an action councils will assess whether that action is permissible under their Power to Advance Well-being.

The Act makes provision for Ministers to issue guidance about exercise of the power.

Draft guidance issued for consultation in March 2003 addresses the following themes:

- what do we mean by "well-being"?
- links with Community Planning and Best Value;
- power to advance well-being: how does it work?;
- possible uses;
- who should benefit; and,
- limits on power to advance well-being.

The Act does not define the term 'well-being'. It is acknowledged that different local authorities will have different views on how to promote or improve the well-being of their area and what constitutes well-being. However, the draft guidance provides some ideas on what the promotion or improvement of well-being may relate to, including:

- economic factors such as the availability of suitable and high quality jobs, efficient transport links, lifelong learning; and new information and communication technologies;
- social factors such as the promotion of good physical and mental health, good housing, safe communities; looking after the needs of children and young people; access to the arts

or leisure facilities; access to education and opportunities for all; and,

- environmental factors such as the availability of clean air, clean water, clean streets and access to parks and open spaces, the quality of the built environment, the removal of objects considered hazardous to health, protecting communities against the threat of climate change, freedom from a high risk of flooding, and removal of disfiguring or offensive graffiti from buildings.

The Act identifies potential activities that may be undertaken using the power to advance well-being:

- incurring expenditure;
- giving financial assistance to any person;
- entering into arrangements or agreements with any person;
- co-operating with, or facilitate or co-ordinate the activities of, any person;
- exercising on behalf of any person any functions of that person; and,
- providing staff, goods, materials, facilities, services or properties to any person.

These examples are not prescriptive or exhaustive, but intended to provide an illustration of how the power might be applied. The first two examples make it clear that local authorities can regard the power to advance well-being as including a broad spending power. Local authorities are able to fund the activities of different groups and bodies, as well as invest in such activities, if they consider that this expenditure is likely to promote or improve the well-being of their area or persons in it. Such financial assistance may be given by way of grants, loans, guarantees or indemnities as elements of financial packages; or contributions in cash or kind.

The Executive has also confirmed its expectation that local authorities will rely on the power to justify setting up or entering into arrangements with corporate bodies.

The power may be used in relation to the whole local authority area or any part of that area. For example, to a

council-wide project covering the whole council area or to a project for a particular community; a particular town; or a particular island within the area. Similarly, the power may be used in relation to all or some of the persons within a local authority area - for example, to benefit all residents, a particular group such as tourists to the area or commuters into the area.

A local authority can use the power outwith its geographical area if it considers doing so is likely to promote or improve the well-being of its own area and/or persons within its area.

Ministers will be able to extend the meaning of 'well-being' by order. This is intended to provide a mechanism to allow well-being to be defined in legislation if considered necessary and updated if appropriate. This provision is not intended to be used to limit the scope of the Power to Advance Well-being.

LIMITS TO POWER OF WELL-BEING

The Act identifies a number of limitations that apply to how local authorities can use the power to advance well-being. These include:

- doing anything that is expressly prohibited, prevented, restricted or limited by other legislation; i.e. there must be an explicit prohibition, it cannot be implied by the legislation concerned;
- using the power in a way that unreasonably duplicates the statutory functions of another body or person, although this would not apply where the other body had consented;
- raising money by levying any form of tax or charge, by borrowing or otherwise;
- imposing charges for anything done in pursuance of certain functions, including education in schools, provision of a public library service and fire fighting (although they will be able to impose 'reasonable' charges for new services provided under the power of well-being); and,
- promoting economic development outside the UK without the prior consent of Scottish Ministers.

REPEAL OF EXISTING LEGISLATIVE RESTRICTIONS

The Act has been designed to take account of the fact that some existing legislative restrictions may need to be repealed if they are considered unnecessarily constraining once councils start to use the Act's provisions to progress real issues. Councils will be able to bring forward proposals for amending, repealing or suspending existing legislation that is restricting their use their Power to Advance Well-being or interfering with their ability to fulfil their duties of Best Value or Community Planning.

Section 57 grants Ministers powers to amend, repeal or disapply existing legislation by order. This provides a means by which the Scottish Executive and Scottish Parliament can consider legislation identified as hindering the use of the power of well-being and, if appropriate, take action without needing to wait for an opportunity through primary legislation.

PART 4: ENFORCEMENT AND SCRUTINY

The Act provides Ministers with powers to ensure that councils comply with their statutory obligations in relation to Best Value, Community Planning and the Power of Well-being.

Specifically in relation to the Power of Well-being, when the powers and obligations provided in the Act are abused or ignored, Ministers will be able to intervene where the action taken or proposed would result in one or more of the following:

- a significant risk to the wider public interest or to public funds;
- a serious misuse of the power of well-being;
- a clear and serious failure to have regard to statutory guidance; and/ or,
- the clear duplication of the roles or functions of other bodies without their agreement.

The powers of intervention will be based on existing powers to issue notices and directions on 'failing services'. Local authorities will have the right to appeal where any such interventions are made. However, Ministers have explicitly stated that intervention will only be used as a power of last resort. The intention is to use the audit role of the Accounts Commission to support councils to fulfil their duty of Best Value.

The emphasis will be on 'non-crisis' intervention with a graded approach involving councils co-operating with the Accounts Commission to develop and implement strategies for improvement identified through the Best Value process. Ministerial intervention will only occur where a local authority refuses to accept the advice or authority of the Accounts Commission or because the immediate use of Executive power is needed to protect the public interest.

Where intervention does occur, Ministers will be able to specify the action the local authority must take to address its failure to meet its statutory obligations. They will be required to report to Parliament on any use of these powers.

PARTS 5-9: OTHER PROVISIONS

Parts 5-9 of the Act have been used as a vehicle to progress a number of miscellaneous issues relating to local authority functions.

WASTE MANAGEMENT

The Act places a new duty on local authorities to prepare integrated waste management plans. Because such plans will include recycling, the separate need for a recycling plan has been repealed. Local authorities will be required to ensure that their waste management plans are consistent with existing area waste plans covering strategic groupings of authority areas or single, geographically large, authority areas.

Ministers will be able to issue directions as to the content of the new integrated waste management plans, including the setting of performance targets and the requirement to set out plans for co-operation with other local authorities. Ministers will also be able to specify the timescales by which plans must be prepared and submitted and the period they will cover.

CAPITAL EXPENDITURE

The Act will repeal section 94 borrowing consents for local authorities when relevant sections are commenced. It is expected that the new arrangements will be in place by the beginning of 2004/05. As a result, strict central

government controls of capital expenditure will be replaced by a prudential system of capital investment.

While under the new system some spending will continue to be supported by capital grant, in future the majority of local authority borrowing and spending will be governed by regulations and not borrowing limits set under section 94. In practice, local authorities' decisions about the level of capital spending and borrowing will be regulated by reference to a new code of practice. The 'prudential' code is being developed by the Chartered Institute of Public Finance and Accountancy (CIPFA), in close consultation with the Executive and COSLA.

Ministers will retain reserve powers to intervene in circumstances where councils are perceived to act contrary to the prudential framework. They may by order determine maximum limits on how much local authorities (and, by direction, a particular local authority) can allocate to capital expenditure in a specified period. However, they have pledged that those powers will not be exercised lightly. Any decision to use the reserve powers will be subject to parliamentary scrutiny.

MISCELLANEOUS

The Act provides for rates relief for small businesses and rural communities. From April 1 2003 50% rate relief will be applied to non-agricultural usage of former farm properties. At present, only properties used for agricultural purposes are exempt from non-domestic rates. Local authorities will have discretionary powers to extend rate relief up to 100%. Each relief scheme will apply for five years and can be extended further with Ministerial approval. The Act has also extended the scope of the existing village shop rate relief scheme to include small food shops.

In a number of other provisions with significance for local government, the Act:

- provides Scottish Ministers with regulation making powers to set council tax charges for second and long-term empty homes;
- allows local authority meetings to be conducted in any way in which each elected member can communicate with each other, for example by video-conference. It also allows summons to meetings to be delivered electronically;
- allows councils to charge for spare places on school transport;
- equalises the age of eligibility for concessionary travel for both men and women at 60; and,
- places a duty on local authorities to pay grants towards the improvement of private water supplies in accordance with conditions that will be prescribed in regulations. Ministers will be required to provide grants to local authorities in respect of their reasonable expenditure under this section.

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MAY 2003