

LOCAL GOVERNMENT IN SCOTLAND ACT 2003

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 1 - Best Value and Accountability

Section 8 – Relaxation of restrictions on supply of goods and services etc by local authorities

23. Section 11 amends the [Local Authorities \(Goods and Services\) Act 1970 \(c.39\)](#) (“the 1970 Act”) to provide a new framework for the provision of goods and services by local authorities to individuals and other organisations.
24. Goods and services can be provided under a trading agreement to anyone the local authority chooses, although the well being of the area or persons within the area must be considered. *Subsection (1M)* of the 1970 Act provides that before entering into any agreement under subsection (1) of the 1970 Act, local authorities should have regard to whether doing so will be likely to promote or improve the well-being of its area, persons within that area or both. In this subsection “well-being” has the same meaning as it has in section 21.
25. Where the agreement is with another local authority the local authority can build its capacity for the purpose of supporting the agreement and the income it makes is not subject to restriction.
26. Where the agreement is with other public authorities or bodies, 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.
27. Where the agreement is with other trading partners than those described above, 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 the Scottish Ministers as provided by *subsection (1D(b))*. *Subsections (1D) and (1E)* provide that the financial limits also apply to dividend income and profit share income derived from a local authority’s interest in a company which has trading agreements to which, if the local authority itself were a party, the financial limits would apply.
28. Such limits, which, according to *subsections (1F) and (1G)* of the 1970 Act, can be set to cover all trading operations or different amounts for different trading operations, will be set by order after consultation and subject annulment in pursuance of a resolution of the Scottish Parliament. The Scottish Ministers will have the power to approve exclusion from the relevant limit of income generated by a particular agreement entered into an authority. It is expected that such approvals will be offered only according to clear and explicit criteria.