



# Local Government in Scotland Act 2003

## 2003 asp 1

### PART 8

#### MISCELLANEOUS

#### 42 Paid time off for councillors not to be political donation

(1) In paragraph 4 (matters that are not donations) of Schedule 7 to the Political Parties, Elections and Referendums Act 2000 (c. 41)—

(a) after sub-paragraph (1)(a) there is inserted—

“(aa) remuneration allowed to an employee by his employer if the employee is a member of a local authority and the remuneration is in respect of time the employer permits the employee to take off during the employee’s working hours for qualifying business—

(i) of the authority,

(ii) of any other body to which the employee is appointed by, or is appointed following nomination by, the authority or a group of bodies that includes the authority, or

(iii) of any other body if it is a public body;”;

(b) after sub-paragraph (3) there is inserted—

“(4) In sub-paragraph (1)(aa)—

“employee” and “employer” have the same meaning as in the Employment Rights Act 1996 (c. 18);

“local authority” means a local authority in any part of the United Kingdom, including the Common Council of the City of London but excluding a parish or community council;

“working hours” of an employee has the same meaning as in section 50 of the Employment Rights Act 1996; and

“qualifying business”, in relation to a body, means—

(a) the doing of anything for the discharge of the functions of the body or of any of its committees or sub-committees, and

- (b) where the body is a local authority operating executive arrangements within the meaning of Part 2 of the Local Government Act 2000 (c. 22) and arrangements exist for functions of any other body to be discharged by the authority's executive or any committee or member of the executive, the doing of any other thing for the purpose of the discharge of the functions.”.

- (2) Subsection (1) above shall be deemed to have come into force on 16th February 2001.
- (3) The Electoral Commission shall remove from the register kept by it under section 69 (register of recordable donations) of that Act of 2000 any entry that they would not have been required to make had subsection (1) above actually been in force throughout the period beginning with 16th February 2001 and ending on the day immediately before the day on which this subsection comes into force.

#### **43 Remote participation in and calling of local authority meetings**

- (1) The meetings of a local authority and its committees, including joint committees, and sub-committees thereof may (as well as being conducted in the way in which they have been conducted before the commencement of this section, that is to say, by all members being present together in a pre-determined place) be conducted in any other way in which each member is enabled to participate although not present with others in such a place.
- (2) A meeting shall be conducted by virtue of subsection (1) above, however, only on the direction of the convener, whom failing, the deputy convener of the authority, committee or, as the case may be, sub-committee.
- (3) Schedule 7 (meetings and proceedings of local authorities) to the 1973 Act has effect in relation to meetings so conducted as if—
  - (a) paragraph 1(3) (place of meetings) and the reference in paragraph 2(1)(a) to the place of an intended meeting were omitted; and
  - (b) the references in paragraphs 3 to 7 and 10 to the presence of members were references to their participation in a meeting so conducted.
- (4) In paragraph 2 of that Schedule, in each of sub-paragraphs (1)(b) and (2)(b), the words “by post” are repealed.

#### **44 Travel concessions**

- (1) In section 93(7) of the Transport Act 1985 (c. 67) (persons eligible for travel concessions), for paragraph (a) there is substituted—
  - “(a) persons who have attained the age of 60 years;”.
- (2) In section 68 of the Transport (Scotland) Act 2001 (asp 2) (travel concession schemes), in subsection (7), for paragraph (a) of the definition of “eligible person” there is substituted—
  - “(a) has attained the age of 60 years;”.
- (3) The Scottish Ministers may by order provide that on and after 6th April 2010 for the references to the age of 60 years in the paragraphs substituted by subsections (1) and (2) above there are substituted references to—

- (a) in the case of a woman, her pensionable age;
  - (b) in the case of a man, the pensionable age of a woman born on the same day, “pensionable age” having the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26).
- (4) An order under subsection (3) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

#### **45 Power to charge for vacant places on school buses etc.**

- (1) In subsection (2) (duty to allow certain pupils to use vacant places) of section 51 of the Education (Scotland) Act 1980 (c. 44), the words “without charge” are repealed.
- (2) After that subsection, there is inserted—
  - “(2AA) An education authority may—
    - (a) subject to subsection (2BB) below, charge the parent of a pupil using a vacant place by virtue of subsection (2) above such sum as the authority consider appropriate; or
    - (b) allow a vacant place to be so used without charge,and the authority may make different charges for different cases or different classes of case.
  - (2BB) An education authority may not charge any sum under subsection (2AA)(a) above unless, having had regard to the financial circumstances of the parent to be charged, the authority consider that the charge can be paid by the parent without undue hardship.”.

#### **46 Power to provide funds for speed cameras etc.**

- (1) The Scottish Ministers may make payments in respect of the whole or any part of the expenditure of a local authority or a joint police board in relation to—
  - (a) the prevention or detection of offences to which subsection (2) below applies; or
  - (b) any enforcement action or proceedings in respect of such offences or any alleged such offences.
- (2) This subsection applies to offences under—
  - (a) section 16 of the Road Traffic Regulation Act 1984 (c. 27) which consist of contraventions of restrictions on the speed of vehicles imposed under section 14 (temporary restrictions) of that Act;
  - (b) subsection (4) of section 17 (traffic regulation on special roads) of that Act which consist of contraventions of restrictions on the speed of vehicles imposed in regulations made under subsection (2) of that section;
  - (c) section 88(7) (temporary minimum speed limits) of that Act;
  - (d) section 89(1) (speeding offences generally) of that Act;
  - (e) section 36(1) (compliance with traffic signs) of the Road Traffic Act 1988 (c. 52) which consist of failure to comply with an indication given by a light signal that vehicular traffic is not to proceed.
- (3) Payments under this section shall be made to—

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- (a) the authority or, as the case may be, board in respect of whose expenditure the payments are being made; or
- (b) any other authority or board for payment, in accordance with arrangements agreed with the Scottish Ministers, to, or on behalf of, the authority or, as the case may be, board in respect of whose expenditure the payments are being made.

(4) Payments under this section shall be paid at such times, in such manner and subject to such conditions as the Scottish Ministers may determine.

#### **47 Power to provide funds for private water supplies**

(1) It is the duty of a local authority to make grants to eligible persons for the purpose of enabling them to improve their private water supply or to provide themselves with a private water supply.

(2) In this section—

“eligible persons” are such persons as are or persons of such class as is prescribed by regulations; and

“private water supply” means a supply of water (including an abstraction of water from a source situated on the premises in which it is used or consumed) other than a supply provided by Scottish Water in pursuance of its core functions (within the meaning of section 70(2) of the Water Industry (Scotland) Act 2002 (asp 3)).

(3) The Scottish Ministers may, by regulations—

- (a) prescribe the conditions which may, must, or must not be imposed in relation to grants made under this section;
- (b) prescribe the procedures which must be followed by eligible persons in making applications for those grants and by local authorities when considering such applications and making payments of those grants;
- (c) provide for the payment of those grants, in such cases as are specified in the regulations, to persons other than the applicants;
- (d) provide for the calculation of those grants;
- (e) fix, or provide for the fixing of, maximum amounts for those grants;
- (f) provide for the delegation of any function of a local authority under this section to any person specified, or referred to, in the regulations;
- (g) repeal, or suspend the effect of, subsection (1) above;
- (h) make provision incidental or supplemental to that made under paragraphs (a) to (g) above.

(4) Regulations under this section may make different provision for different cases or different classes of case.

(5) The power to make regulations under this section is exercisable by statutory instrument which shall, subject to subsection (6) below, be subject to annulment in pursuance of a resolution of the Scottish Parliament.

(6) No regulations under this section which repeal, or suspend the effect of, subsection (1) above are to be made unless a draft of the instrument containing them has been approved by resolution of the Scottish Parliament.

(7) The Scottish Ministers shall make grants to local authorities in respect of their expenditure reasonably incurred in making grants under this section.

**48      Delegation of Strathclyde Passenger Transport Authority functions to officials**

In paragraph 7 of Part II of Schedule 5 to the Local Government etc. (Scotland) Act 1994 (c. 39) (which paragraph enables certain orders made in relation to the Strathclyde Passenger Transport Authority to provide for the delegation of functions of the Authority to a committee or to its chairman), for “or to the chairman” there is inserted “, to the chairman or to an officer or member of staff”.

**49      Parliamentary procedure for regulations about vehicles used as taxis and private hire cars**

In section 20 (regulations about, among other things, taxis and private hire cars) of the Civic Government (Scotland) Act 1982 (c. 45)—

- (a) in subsection (2), the words “made by statutory instrument” are repealed; and
- (b) in subsection (3), for “subsection (1) above” there is substituted “subsection (1) or (2) above”.

**50      Suspension of requirement to advertise principal teacher posts**

- (1) The requirement imposed on an education authority by section 87A of the Education (Scotland) Act 1980 (c. 44) to advertise a vacant post of principal teacher is, for the period specified in subsection (2) below, suspended.
- (2) That period is the period of one year (or such longer period as the Scottish Ministers may by order substitute for that period) beginning with the coming into force of this section.
- (3) An order under subsection (2) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

**51      Arrangements and agreements with bodies corporate**

- (1) It is the duty of a local authority—
  - (a) in entering any arrangement or agreement with a body corporate; and
  - (b) in implementing any such arrangement or agreement,to comply with any code or other document which the Scottish Ministers direct is to have effect for the purposes of regulating local authorities in entering and implementing such arrangements or agreements.
- (2) Directions for the purposes of subsection (1) above may include requirements calculated to ensure compliance by local authorities with their duties under section 1 above.

**52      Guidance on contractual matters**

It is the duty of a local authority, in exercising a power to enter into a contract, to have regard to any guidance issued to it by the Scottish Ministers in that respect.

**53      Qualification of and assistance for Accounts Commission auditors**

- (1) In section 97 of the 1973 Act, in subsection (7) (qualification of auditors appointed by Accounts Commission), for paragraph (b) there is substituted—

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“(b) he is a member of a body of accountants established in the United Kingdom or another EEA State.”.

(2) After that subsection there is inserted—

“(7A) In subsection (7) above, “EEA State” means any State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993.”.

(3) Auditors appointed under section 97 of the 1973 Act by the Accounts Commission (whether or not officers of the Commission) may be assisted by having such of their functions as may be specified in arrangements approved by the Commission carried out by other persons so specified or so referred to.

(4) Such arrangements may apply generally or to a particular case or cases.

#### **54 Accounts Commission’s and auditor’s powers to obtain information from persons other than local authorities etc.**

(1) In section 97B(1) (power of Accounts Commission to require the furnishing of information and documents) of the 1973 Act—

- (a) after “require”, where first occurring, there is inserted “(a)”; and
- (b) after “body”, where secondly occurring, there is inserted “;
  - (b) any person who, by arrangement or agreement with any such body, is discharging any function of the body,”.

(2) In section 100 (auditor’s right of access to documents) of that Act—

- (a) in subsection (1B)—
  - (i) after “Act” there is inserted “and any person who, by arrangement or agreement with the authority or body, is discharging any function of the authority or body”; and
  - (ii) at the end there is inserted “or, where that person is a body corporate, to require that person to appoint a representative to attend before the auditor for that purpose.”;
- (b) in subsection (2), at the end, there is inserted “and every person who, by arrangement or agreement with a local authority, is discharging any function of the authority shall make that provision for the purpose of the auditing of the authority’s accounts.”.

#### **55 Auditor’s duty in relation to aspects of best value and community planning**

(1) Section 99 (duties of auditors) of the 1973 Act is renumbered as subsection (1) of that section and, in that subsection, in paragraph (c), for the words from “economy” onward there is substituted “best value and is complying with its duties under sections 15 to 17 (community planning) of the Local Government in Scotland Act 2003 ([asp 1](#))”.

(2) After that subsection there is inserted—

“(2) In subsection (1) above, the references to best value and arrangements for securing it are references to best value within the meaning of section 1 of the Local Government in Scotland Act 2003 ([asp 1](#)) and the arrangements for securing it which are to be made under that section.”.

**56      Extension of Controller of Audit’s reporting functions to best value and community planning: amendment of section 102 of 1973 Act**

For subsections (1) and (2) of section 102 (reports by Controller of Audit) of the 1973 Act there is substituted—

“(1) The Controller of Audit may and, if so required by the Commission, shall make reports to the Commission with respect to—

- (a) the accounts of local authorities audited under this Part of this Act;
- (b) any matters arising from the accounts of any of those authorities or from the auditing of those accounts being matters that the Controller considers should be considered by the local authority or brought to the attention of the public;
- (c) the performance by a local authority of their duties under Part 1 (best value and accountability) and Part 2 (community planning) of the Local Government in Scotland Act [2003 \(asp 1\)](#).

(2) The Controller of Audit shall send a copy of a report made under subsection (1) above to—

- (a) any local authority named in the report; and
- (b) any other person the Controller thinks fit.”.