



# Local Government in Scotland Act 2003

## 2003 asp 1

### PART 4

#### ENFORCEMENT AND SCRUTINY

#### **26 Excess of power: preliminary notice**

- (1) If it appears to the Scottish Ministers—
  - (a) that a local authority has significantly exceeded its power under section 20 above; and
  - (b) that giving the local authority an enforcement direction is justified, they may serve a preliminary notice on the authority.
- (2) A preliminary notice is a written notice which—
  - (a) informs the authority of the apparent excess of power; 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 significantly exceeded the power in the respects described in the notice and justifies the statement; or
    - (ii) states it has so exceeded the power but gives reasons why they should not give a direction under subsection (3) below.
- (3) Where, following the service of a preliminary notice and the expiry of the time specified in it under subsection (2)(b) above, it still appears to the Scottish Ministers that the local authority is significantly exceeding the power and that action by them under this section is justified, they may give the authority an enforcement direction.