

PART 3

POWER TO ADVANCE WELL-BEING

20 Power to advance well-being

(1) A local authority has power to do anything which it considers is likely to promote or improve the well-being of -

- (a) its area and persons within that area; or
- (b) either of those.

(2) The power under subsection (1) above includes power to—

- (a) incur expenditure,
- (b) give financial assistance to any person,
- (c) enter into arrangements or agreements with any person,
- (d) co-operate with, or facilitate or co-ordinate the activities of, any person,
- (e) exercise on behalf of any person any functions of that person, and
- (f) provide staff, goods, materials, facilities, services or property to any person.

(3) The power under subsection (1) above may be exercised in relation to, or for the benefit of—

- (a) the whole or any part of the area of the local authority;
- (b) all or some of the persons within that area.

(4) The power under subsection (1) above includes power to do anything—

- (a) in relation to, or for the benefit of, any persons or place outwith the area of the local authority; or
- (b) in any such place,

if the authority considers that doing so is likely to achieve the purpose set out in that subsection.

(5) The Scottish Ministers may, by order, extend the meaning of “well-being” for the purposes of this section.

(6) Such an order shall be made by statutory instrument but not unless a draft of it has been laid before and approved by resolution of the Scottish Parliament.

(7) Before laying such a statutory instrument, the Scottish Ministers shall consult such associations of local authorities as they think fit.

21 Guidance on exercise of power under section 20

(1) Before exercising the power under section 20 above, a local authority shall have regard to any guidance provided by the Scottish Ministers about the exercise of the power.

(2) Before providing any such guidance, the Scottish Ministers shall consult such associations of local authorities and other persons as they think fit.

22 Limits on power under section 20

(1) The power under section 20 above does not enable a local authority to do anything which it is, by virtue of a limiting provision, unable to do.

(2) In subsection (1) above, a “limiting provision” is one which—

- (a) prohibits or prevents the local authority from doing anything or limits its powers in that respect; and
- (b) is expressed in an enactment (whenever passed or made).

(3) The absence from any enactment of provision conferring any power does not of itself make that enactment a limiting provision.

(4) The power under section 20 above shall not be exercised in a way which unreasonably duplicates anything which may or must be done in pursuance of a function, under any enactment (whenever passed or made), of a person other than the local authority.

(5) Subsection (4) above does not prevent the exercise of the power under section 20 in a way which duplicates anything of the kind mentioned in that subsection if the person there mentioned consents to that exercise of the power.

(6) The power under section 20 above does not enable the doing of anything which may be done under the Local Authorities (Goods and Services) Act 1970 (c. 39).

(7) The power under section 20 above does not enable a local authority to do anything for the purposes of enabling the authority to raise money by levying or imposing any form of tax or charge, by borrowing or otherwise.

(8) Nothing in subsection (7) above prevents a local authority from—

- (a) setting and determining amounts of council tax; or
- (b) subject to subsection (9) below, imposing reasonable charges for anything done by the authority under section 20 above.

(9) The saving in subsection (8)(b) above does not enable a local authority to impose charges in respect of anything done by it in pursuance of any of the following functions—

- (a) functions relating to education in schools;
- (b) functions relating to the provision of a public library service;
- (c) functions relating to fire fighting, that is, putting out fires and protecting life and property when fire occurs;
- (d) functions relating to the registration of elections;
- (e) functions relating to the conduct of elections;
- (f) such other functions as may by order be prescribed for the purposes of this subsection by the Scottish Ministers.

(10) Before making an order under subsection (9)(f) above, the Scottish Ministers shall consult such associations of local authorities and such other persons as they think fit.

(11) Where, under section 20 above, a local authority imposes any charge, it shall publish its reason for doing so and an explanation of how it arrived at the amount of the charge.

(12) Any order under subsection (9)(f) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

(13) A local authority shall not, without the prior consent of the Scottish Ministers, do anything under section 20 above outside the United Kingdom for the purpose of promoting or improving the economic development of its area.

(14) Nothing in section 20 above affects section 92(5) of the Housing (Scotland) Act 2001 ([asp 10](#)) (by which it is provided that certain assistance, including financial assistance, provided by a local authority for certain housing purposes requires the consent of the Scottish Ministers).