

Changes to legislation: Local Audit and Accountability Act 2014, SCHEDULE 8 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 8

Section 29

ADVISORY NOTICES

Modifications etc. (not altering text)

- C1** Sch. 8 excluded by 1999 c. 29, s. 134(5) (as amended) (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\), s. 49\(1\), Sch. 12 para. 43\(3\)](#); S.I. 2015/841, art. 3(x)

Power to issue advisory notice

- 1 (1) A local auditor of the accounts of a relevant authority, other than a health service body, may issue a notice under this paragraph (an “advisory notice”) if the auditor thinks that the authority or an officer of the authority—
- (a) is about to make or has made a decision which involves or would involve the authority incurring unlawful expenditure,
 - (b) is about to take or has begun to take a course of action which, if followed to its conclusion, would be unlawful and likely to cause a loss or deficiency, or
 - (c) is about to enter an item of account, the entry of which is unlawful.
- (2) An advisory notice is a notice which—
- (a) is addressed to the authority or officer concerned,
 - (b) specifies the paragraph of sub-paragraph (1) which is relevant and the decision, course of action or item of account to which the notice relates,
 - (c) specifies that the notice will take effect on the day on which a copy of the notice is served on the person to whom it is addressed, and
 - (d) requires the authority or officer to give the authority's local auditor at least the specified number of days' notice in writing of the intention of the authority or officer to—
 - (i) make or implement the decision,
 - (ii) take or continue to take the course of action, or
 - (iii) enter the item of account,(as the case may be).
- (3) In sub-paragraph (2)(d) “the specified number” means the number of days specified in the notice, which may not be more than 21.
- (4) For the purposes of this Schedule the actions of the following are to be treated as actions of the relevant authority itself—
- (a) a committee or sub-committee of the authority;
 - (b) any other person (other than an officer) authorised to act on behalf of the authority.

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Commencement Information

- II** Sch. 8 para. 1 in force at 1.4.2015 by S.I. 2015/841, art. 3(r) (with Sch. para. 1) (as amended (27.6.2016) by S.I. 2016/675, art. 2)

Service and withdrawal of notice

- 2 (1) A copy of an advisory notice—
- (a) in the case of a notice addressed to a relevant authority, must be served on the relevant authority,
 - (b) in the case of a notice addressed to an officer, must be served on the relevant authority concerned and the officer, and
 - (c) may be served on any other person the local auditor thinks appropriate.
- (2) If the relevant authority referred to in sub-paragraph (1)(a) or (b) is a connected entity, a copy of the notice must also be served on its related authority or authorities.
- (3) The local auditor must serve a statement of the auditor's reasons for the belief referred to in paragraph 1(1)—
- (a) on the relevant authority concerned,
 - (b) on any officer on whom a copy of the notice was served under sub-paragraph (1)(b), and
 - (c) if a copy of the notice was served on a related authority or authorities under sub-paragraph (2), on that authority or those authorities.
- (4) The statement must be served before the end of the period of 7 days beginning with the day on which a copy of the notice was served on the person to whom it is addressed.
- (5) Where this paragraph requires a document to be served on an officer of a relevant authority, it must be served by addressing it to the officer and delivering it to the officer or leaving it at, or sending it by post to, the office where the officer is employed.
- (6) An advisory notice may at any time be withdrawn by the local auditor of the accounts of the relevant authority to which, or to an officer of which, the notice was addressed.
- (7) The local auditor must give notice in writing of the withdrawal to any person on whom a copy of the advisory notice was served under sub-paragraph (1) or (2).
- (8) In this Schedule “the relevant authority concerned”, in relation to an advisory notice, means the relevant authority to which, or to any officer of which, the notice is addressed.

Commencement Information

- I2** Sch. 8 para. 2 in force at 1.4.2015 by S.I. 2015/841, art. 3(r) (with Sch. para. 1) (as amended (27.6.2016) by S.I. 2016/675, art. 2)

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Effect of an advisory notice

- 3 (1) While an advisory notice has effect, it is not lawful for the relevant authority concerned or any officer of that authority—
- (a) if the notice relates to a decision, to make or implement the decision,
 - (b) if the notice relates to a course of action, to take or continue to take the course of action, or
 - (c) if the notice relates to an item of account, to enter the item of account.
- (2) Sub-paragraph (1) does not apply if—
- (a) the relevant authority has considered, in the light of the advisory notice and the statement under paragraph 2(3), the consequences of doing the thing mentioned in sub-paragraph (1) which is relevant,
 - (b) the relevant authority or officer has given the authority's local auditor and (where applicable) its related authority or each of its related authorities the period of notice in writing required by the advisory notice under paragraph 1(2)(d), and
 - (c) that period has expired.
- (3) The condition in paragraph (a) of sub-paragraph (2) is met in relation to a parish meeting only if the matters referred to in that paragraph are considered by the parish meeting itself (and not by its chairman on behalf of the parish meeting).
- (4) An advisory notice takes effect on the day on which a copy of the notice is served on the person to whom it is addressed, and ceases to have effect—
- (a) if a statement of reasons is not served in accordance with paragraph 2(3), at the end of the period specified in paragraph 2(4), or
 - (b) when it is withdrawn under paragraph 2(6).
- (5) A local auditor may recover from a relevant authority—
- (a) the reasonable costs of determining whether to issue an advisory notice to that authority or an officer of that authority, and
 - (b) the reasonable costs of issuing an advisory notice to that authority or an officer of that authority.
- (6) Sub-paragraph (5)(a) applies regardless of whether the notice is in fact issued.

Commencement Information

- I3** Sch. 8 para. 3 in force at 1.4.2015 by S.I. 2015/841, art. 3(r) (with Sch. para. 1) (as amended (27.6.2016) by S.I. 2016/675, art. 2)

Further provisions about advisory notices

- 4 (1) Sub-paragraph (2) applies if—
- (a) before an advisory notice is served, a relevant authority enters into a contract to dispose of or acquire an interest in land, and
 - (b) before the disposal or acquisition is completed, an advisory notice takes effect as a result of which it is unlawful for the authority to complete the disposal or acquisition.

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- (2) The existence of the advisory notice does not affect any remedy in damages which may be available to any person by reason of the relevant authority's failure to complete the contract.
- (3) No action lies against a local auditor in respect of loss or damage alleged to have been caused by reason of the issue of an advisory notice which was issued in good faith.

Commencement Information

I4 [Sch. 8 para. 4](#) in force at 1.4.2015 by [S.I. 2015/841](#), [art. 3\(r\)](#) (with [Sch. para. 1](#)) (as amended (27.6.2016) by [S.I. 2016/675](#), art. 2)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2015/841 by [S.I. 2016/675 art. 2](#)