



# Localism Act 2011

## 2011 CHAPTER 20

### PART 2

#### EU FINANCIAL SANCTIONS

#### **55 Matters to be determined before a final notice is given**

- (1) This section applies where—
  - (a) a warning notice has been given to a public authority; and
  - (b) the panel has considered all representations made to it under the procedures set out in that notice.
- (2) The panel must make, to a Minister of the Crown, a report on the matters to which the representations made to the panel relate.
- (3) The report—
  - (a) may be published by the panel in such manner as the panel thinks fit and, if not published by the panel, must be published by the Minister of the Crown to whom it is made in such manner as the Minister of the Crown thinks fit;
  - (b) must include recommendations as to the determination of the matters mentioned in subsection (4)(a) and (b);
  - (c) if the authority has made representations to the panel about anything the authority considers relevant to any of the matters mentioned in paragraphs (c) to (e) of subsection (4), must include recommendations as to the determination of the matters mentioned in those paragraphs; and
  - (d) must include the panel's reasons for any recommendations included in the report.
- (4) After having had regard to the report, a Minister of the Crown must determine the following matters—
  - (a) whether any acts of the authority did cause or contribute to the infraction of EU law concerned and, in relation to any periodic payments, whether any acts of the authority have continued, and will continue, to cause or contribute to the continuation of that infraction;

*Status: Point in time view as at 22/11/2012.*

*Changes to legislation: Localism Act 2011, Section 55 is up to date with all changes known to be in force on or before 15 June 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)*

- (b) the proportion of—
    - (i) the total amount of the sanction (being the amount to be specified under section 56(2)(b) if a final notice is given), and
    - (ii) any periodic payments not included in that total amount (including both payments that have fallen due since the date specified under section 54(7)(b) and future periodic payments),
 that, in the light of the acts of the authority which are determined to be relevant for the purposes of paragraph (a), is to be regarded as reflecting the authority's share of the responsibility for the infraction of EU law concerned or, in relation to a periodic payment mentioned in sub-paragraph (ii), the continuing infraction of EU law concerned;
  - (c) whether the authority should be required to make any payment or payments in respect of the EU financial sanction;
  - (d) if so, what payment or payments the authority should make towards—
    - (i) the total amount of the sanction referred to in paragraph (b)(i); and
    - (ii) any periodic payments referred to in paragraph (b)(ii); and
  - (e) when any such payment or payments should be made.
- (5) In determining the matters mentioned in subsection (4)(c), (d) and (e) the Minister of the Crown must have regard to—
- (a) the effect on the authority's finances of any amount it may be required to pay and in particular, if the authority has mixed functions, the need to avoid any prejudicial effect on the performance by the authority of its devolved functions;
  - (b) the determination under subsection (4)(b); and
  - (c) any other relevant considerations.
- (6) Before making a final decision on the matters mentioned in subsection (4)(c), (d) and (e), the Minister of the Crown must invite—
- (a) representations from the authority about the potential effect on its finances and, if it has mixed functions, the effect on its devolved functions of any amount it may be required to pay; and
  - (b) if the authority has mixed functions, representations from the appropriate national authority.

#### Commencement Information

**II** S. 55 in force at 31.5.2012 by S.I. 2012/1008, art. 5

**Status:**

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