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STATUTORY INSTRUMENTS

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**1991 No. 397 (S.39)**

**LOCAL GOVERNMENT, SCOTLAND**

**The Local Authorities Etc. (Allowance)  
(Scotland) Regulations 1991**

<i>Made</i>	- - - -	<i>1st March 1991</i>
<i>Laid before Parliament</i>		<i>4th March 1991</i>
<i>Coming into force</i>		
<i>Regulations 1 to 21</i>		<i>5th March 1991</i>
<i>Remainder</i>		<i>1st April 1991</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 45, 47, 49A, 50 and 235(1) of the Local Government (Scotland) Act 1973(1), sections 18 and 190(1) of the Local Government and Housing Act 1989(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**PART I**  
**GENERAL**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Local Authorities Etc. (Allowances) (Scotland) Regulations 1991.

(2) Regulations 1 to 21 of these Regulations shall come into force on 5th March 1991 and all other regulations thereof shall come into force on 1st April 1991.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

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- (1) 1973 c. 65; section 45 was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), section 60(1)(a) and repealed by the Local Government and Housing Act 1989 (c. 42) (“the 1989 Act”), Schedule 12, Part II, but was saved for certain purposes by S.I.1991/344; section 47 was amended by the 1989 Act, Schedule 11, paragraph 34; section 49A was added by the Local Government, Planning and Land Act 1980 (c. 65), section 26(3) and repealed by section 1989 Act Schedule 12, Part II, but was saved in relation to members of licensing boards by S.I. 1991/344.
- (2) 1989 c. 42.

- “the 1973 Act” means the Local Government (Scotland) Act 1973;
- “the 1976 Act” means the Licensing (Scotland) Act 1976(3);
- “the 1989 Act” means the Local Government and Housing Act 1989;
- “approved duty” has the same meaning as in section 49(2) of the 1973 Act(4);
- “committee or sub-committee”, in relation to a local authority, includes a joint committee of the local authority and one or more other local authorities or, as the case may be, any sub-committee of such a joint committee;
- “constituent council” in relation to a joint board, means any local authority which appoints members to that board.
- “councillor” means, in relation to a local authority, an elected member of that authority and, in relation to a joint board, any member of that board who is treated as if he were a councillor by virtue of regulation 15;
- “joint board” has the same meaning as in section 235(1) of the 1973 Act;
- “local authority” means a regional, islands or district council;
- “licensing board” means a licensing board constituted under section 1 of the Licensing (Scotland) Act 1976(5);
- “political group”, in relation to a local authority, means a political group constituted in accordance with Schedule 1, and “leader” and “deputy leader” of a political group shall be construed accordingly;
- “relevant maximum”, “standard maximum”, “total estimated allowances”, “transitional maximum” shall be construed in accordance with regulation 12(2);
- “section 49A of the 1973 Act” means that section as applied in relation to members of licensing boards by section 3 of the 1976 Act and as read with that section;
- “year” means the period of 12 months beginning with 1st April.

(2) For the purposes of these Regulations, members of a local authority are to be treated as divided into different political groups when there is at least one political group in existence constituted in accordance with Schedule 1.

(3) For the purposes of these Regulations, the term of office of a councillor who is a member of a local authority, shall begin—

- (a) in the case of a councillor elected to that office on or after 3rd May 1990, on the date on which he makes a declaration of acceptance of that office under section 33A of the 1973 Act(6); and
- (b) in any other case, on the day on which he was elected to that office.

(4) Unless the context otherwise requires, any reference in these Regulations—

- (a) to a numbered Part of a numbered regulation or a numbered Schedule is a reference to the Part, regulation or, as the case may be, Schedule bearing that number in these Regulations; and
- (b) to a numbered paragraph in a regulation or in a Schedule is a reference to the paragraph bearing that number in that regulation or in that Schedule.

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(3) 1976 c. 66.

(4) Section 49(2) was amended by the Local Government and Planning (Scotland) Act 1982, section 60(2) and Schedule 4, Part I.

(5) 1976 c. 66; section 1 was amended by the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), Schedule 3, paragraph 37.

(6) Section 33A was inserted by the Local Government and Housing Act 1989, section 30(1).

## PART II

### LOCAL AUTHORITY SCHEMES FOR MEMBERS' ALLOWANCES

#### Application of Part II

3. This Part applies to any local authority.

#### Allowance schemes

4.—(1) Before 1st April 1991 each authority shall make a scheme in accordance with these Regulations for the payment of allowances in respect of the year commencing on that date and subsequent years.

(2) When a scheme is revoked in accordance with regulation 5(1), an authority shall before the revocation takes effect make a further scheme for the period beginning with the date on which the revocation takes effect.

#### Amendment of schemes

5.—(1) A scheme made under this Part may be amended at any time but may only be revoked with effect from the beginning of a year.

(2) Where an amendment is to be made which relates to an allowance payable for the year in which the amendment is made, the scheme shall provide—

- (a) if the amendment affects such an allowance as is mentioned in regulation 6 or 7, that in relation to each of the periods—
- (i) beginning with 1st April in that year and ending with the day before that on which the first amendment in that year takes effect; or
  - (ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with 31st March in that year,

the entitlement to such an allowance shall be to payment of such part of the amount of the allowance under the scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year;

- (b) if the amendment relates to such an allowance as is mentioned in regulation 8, that the entitlement to such an allowance shall be to payment of the amount of the allowance under the scheme as it has effect when the duty is carried out.

#### Basic allowances

6.—(1) A scheme made under this Part shall provide for the payment for each year to which the scheme relates of an allowance (“basic allowance”) to each member of the authority who is a councillor; and the amount of such allowance shall be the same for each such member.

(2) The scheme shall provide that, where the term of office of a member begins or ends otherwise than at the beginning or end of a year, his entitlement shall be to payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office as member and councillor subsists bears to the number of days in that year.

(3) Where a scheme is amended as mentioned in paragraph (2) of regulation 5 and the term of office of a member who is a councillor does not subsist throughout the whole of the period mentioned in sub-paragraph (a) of that paragraph, the scheme shall provide that the entitlement of any such

member under this regulation shall be to payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as member and councillor subsists in that period bears to the number of days in the period.

### **Special responsibility allowances – authorities**

7.—(1) A scheme made under this Part shall provide, in accordance with paragraph (2), for the payment for each year to which that scheme relates of an allowance (“special responsibility allowance”) to such members of the authority who are councillors as have such special responsibilities in relation to the authority as are specified in the scheme and are within one or more of the following categories:—

- (a) acting as leader or deputy leader of a political group within the authority;
- (b) presiding at meetings of a committee or a sub-committee of the authority;
- (c) representing the authority at meetings of, or arranged by, any other body;
- (d) membership of a committee or a sub-committee of the authority which meets with exceptional frequency or for exceptionally long periods;
- (e) acting as the spokesman of a political group on a committee or sub-committee of the authority;
- (f) such other activities in relation to the discharge of the authority’s functions as require an amount of time and effort equal to or greater than any one of the activities mentioned in sub-paragraphs (a) to (e) (whether or not that activity is specified in the scheme).

(2) The scheme shall—

- (a) specify the amount of every special responsibility allowance, which need not be the same; and
- (b) provide that, where—
  - (i) members of an authority are divided into at least two political groups; and
  - (ii) either a majority of members of the authority, or half of such members and the chairman of the authority, belong to the same political group (“the controlling group”),

a special responsibility allowance shall be paid to at least one person who is not a member of the controlling group and has special responsibilities described in paragraph (1)(a) or (e); and

- (c) provide that, where a member does not have throughout a year any such special responsibilities as entitle him to a special responsibility allowance, his entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year; and
- (d) provide that, where a scheme is amended as mentioned in paragraph (2) of regulation 5 and a member does not have throughout the whole of any period mentioned in sub-paragraph (a) of that paragraph any such special responsibilities as entitle him to a special responsibility allowance, his entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he has such special responsibilities bears to the number of days in the period.

### **Attendance allowance**

**8.**—(1) A scheme made under this Part may provide for the payment to each member of the authority who is a councillor of an allowance (“attendance allowance”) in respect of—

- (a) the carrying out of such of the duties referred to in paragraph (2) and not excluded by paragraph (3) as may be specified in the scheme; and
- (b) the time spent in travelling to and from the location at which any such duty is performed,

(2) The duties referred to in this paragraph are attendance at—

- (a) a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments, elections or nominations, or of any committee or sub-committee of such a body;
- (b) any other meeting the holding of which is authorised by the authority, or a committee or sub-committee of the authority, provided that—
  - (i) where the authority is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited; or
  - (ii) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
- (c) a meeting of any association of authorities of which the authority is a member.

(3) The duties excluded by this paragraph are those in respect of which the member receives remuneration otherwise than under a scheme.

(4) The amount of the attendance allowance shall be specified in the scheme and may vary according to the time of day and the duration of the duty; but shall be the same for all members of the authority entitled to the allowance in respect of a duty of any description at the same time of day and of the same duration.

(5) The scheme shall provide that a member shall not be entitled to payment of an attendance allowance—

- (a) in respect of his attendance at any conference or meeting in relation to which he is entitled to a payment in the nature of an attendance allowance under section 47 of the 1973 Act; or
- (b) if such payment would be contrary to a provision made by or under any enactment.

(6) The scheme may provide that a member shall not be entitled to payment of more than one attendance allowance in respect of any period of 24 hours beginning at such time as the authority may determine.

### **Amount of allowances etc.**

**9.** A scheme made under this Part shall specify in respect of any year to which it relates—

- (a) the amount of the entitlement by way of basic allowance;
- (b) the amount of the entitlement by way of special responsibility allowance; and where different amounts apply to different responsibilities, the amount applicable to each;
- (c) the rates applicable to payments by way of attendance allowance (where the scheme provides for that allowance).

### **Elections**

**10.** A scheme made under this Part shall provide that a member may by notice in writing given to the proper officer of the local authority, elect to forgo any part of his entitlement to an allowance under the scheme.

## Claims and payments

**11.—**(1) A scheme made under this Part shall provide that a claim for an attendance allowance under the scheme shall be made within two months of the date on which the duty in respect of which the entitlement to the allowance arises is carried out.

(2) Nothing in paragraph (1) shall prevent a local authority from making a payment where the allowance is not claimed within the period specified in the scheme.

(3) A scheme made under this Part may provide for payments of allowances to be made at such times as may be specified in it, and different times may be specified for different allowances.

## PART III

### LOCAL AUTHORITY SCHEMES – FINANCIAL RESTRICTIONS

#### Application of Part III and interpretation

**12.—**(1) This Part applies in relation to schemes made by a local authority under Part II.

(2) In this Part—

“standard maximum” means an amount equal to the product of—

- (a) the amount determined in relation to the local authority by reference to the Table in Schedule 2; and
- (b) the number of persons who may at the same time be councillors of the local authority;

“relevant maximum” means, as respects a year, an amount equal to the standard maximum or, if greater, the transitional maximum;

“total estimated allowances” means the aggregate of the amounts estimated by the local authority (at the time when a payment referred to in regulation 13(b), (d) or (e) is made) to be payable by the local authority in relation to the year—

- (a) under a scheme made by the local authority under Part II; and
- (b) under a scheme made by a joint board under Part IV; and
- (c) in the nature of an attendance allowance under section 47 of the 1973 Act; and
- (d) under section 49A of the 1973 Act,

and for this purpose, any election under regulation 10 or under regulation 20 shall be disregarded;

“transitional maximum” means—

- (a) in relation to the year beginning 1st April 1991, an amount which is equal to the lesser of—
  - (i) 150% of the standard maximum; or
  - (ii) 97% of the aggregate of the amounts paid as respects the year ending 31st March 1990 to members of the local authority who were councillors by way of allowances under section 45(1) (attendance allowance), section 45A (financial loss allowance)<sup>(7)</sup> and section 49A (special responsibility allowance) of the 1973 Act or, to the extent that they were in the nature of those payable under section 45 of that Act, under section 47 (allowances for attending conferences and meetings) of that Act;

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(7) Section 45A was inserted by the Local Government and Planning (Scotland) Act 1982, Section 60(1)(b) and repealed by the Local Government and Housing Act 1989, Schedule 12, Part 11.

- (b) in relation to any subsequent year, 90% of the transitional maximum ascertained for the preceding year.

### **Financial restrictions**

**13.** A scheme made by a local authority under Part II shall provide that—

- (a) any payment under the scheme in relation to a year is conditional on the aggregate in relation to that year of amounts which the local authority has paid out or is already liable to pay out—
  - (i) under the scheme made by the local authority under Part II; and
  - (ii) under a scheme made by a joint board under Part IV; and
  - (iii) in the nature of an attendance allowance under section 47 of the 1973 Act; and
  - (iv) under section 49A of the 1973 Act,

not exceeding such amount as is determined by applying the formula—

$$A + (B - C),$$

where—

A is the relevant maximum for that year;

B is an amount, if any, determined by the local authority, being an amount no greater than 5% of A; and

C is an amount equal to the amount, if any, by which the aggregate of the amounts paid by the local authority in respect of the year preceding that to which the scheme relates by way of allowances under section 18 of the 1989 Act lawfully exceeded the relevant maximum for that year in terms of the formula applicable to that year;

- (b) any payment by way of basic allowance for a year is conditional on the aggregate amount which the local authority has paid out or is already liable to pay out by way of basic allowance in relation to that year not exceeding 95% of total estimated allowances for that year;
- (c) any payment to a particular member by way of special responsibility allowance for any year under the scheme is conditional on the aggregate amount in relation to that year of—
  - (i) the total amount which the local authority has paid out or is already liable to pay out to that member by way of special responsibility allowance in relation to that year under a scheme made under Part II;
  - (ii) where that member is entitled to a special responsibility allowance under a scheme made by a joint board under Part IV, the total of the amounts which each constituent council has paid out or is already liable to pay out to that member by way of special responsibility allowance in relation to that year under that scheme; and
  - (iii) where that member is entitled to an allowance under section 49A of the 1973 Act, the total amount which the local authority has paid out or is already liable to pay out to that member in relation to that year under the said section 49A, not exceeding £7,500;
- (d) any payment by way of special responsibility allowance for a year is conditional on the aggregate amount which the local authority has paid out or is already liable to pay out by way of special responsibility allowance in relation to that year—
  - (i) under a scheme made by the local authority under Part II; and
  - (ii) under a scheme made by a joint board under Part IV; and

- (iii) under section 49A of the 1973 Act,
  - not exceeding 25 per cent of total estimated allowances for that year;
- (e) any payment by way of attendance allowance for a year is conditional on—
  - (i) the aggregate amount which the local authority has paid out or is already liable to pay out by way of attendance allowance in relation to that year not exceeding 70% of total estimated allowances for that year; and
  - (ii) the aggregate amount which the local authority has paid out or is already liable to pay out by way of attendance allowance and special responsibility allowance in relation to that year not exceeding 75% of total estimated allowances for that year; and
  - (iii) the aggregate amount which the local authority has paid out or is already liable to pay out by way of attendance allowance and basic allowance in relation to that year not exceeding 95% of total estimated allowances for that year.

## PART IV

### JOINT BOARD SCHEMES FOR MEMBERS' ALLOWANCES

#### **Application of Part IV**

14. This Part applies to any joint board.

#### **Members of joint boards to be treated as councillors**

15. For the purposes of section 18 of the 1989 Act, a member of a joint board shall be treated as if he were a councillor.

#### **Schemes for special responsibility allowances**

16. A joint board may make a scheme in accordance with the provisions of these Regulations providing for the payment for each year to which the scheme relates of a special responsibility allowance to such members of the board as have such special responsibilities in relation to the board as are specified in the scheme and are within one of the following categories—

- (a) acting as chairman or vice-chairman of the board;
- (b) representing the board at meetings of, or arranged by, any other body;
- (c) such other activities in relation to the discharge of the board's functions as require an amount of time and effort equal to or greater than any of the activities mentioned in subparagraphs (a) and (b) (whether or not that activity is specified in the scheme).

#### **Amount of special responsibility allowance**

17. Any scheme made under this Part shall—
- (a) specify the amount of every special responsibility allowance, and, where different amounts apply to different responsibilities, the amount applicable to each; and
  - (b) provide that, where a member does not have throughout a year any such special responsibilities as entitle him to a special responsibility allowance, his entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.



## Payments

18. A scheme made by a joint board under this Part shall provide—
- (a) that each constituent council shall notify the joint board before the beginning of the year to which the scheme relates of the amount, if any, which the council has allocated towards payment of special responsibility allowances for that year under the scheme;
  - (b) that any special responsibility allowance payable under the scheme in relation to any year shall be paid by each constituent council in the proportion which the amount, if any, for that year which that council has notified to the joint board under paragraph (a) bears to the aggregate amount for that year which all the constituent councils have notified to the joint board in accordance with that paragraph; and
  - (c) that payments of special responsibility allowances are to be made at such times as may be specified in the scheme.

## Financial restrictions

19.—(1) A scheme made by a joint board under this Part shall provide that any payment by a constituent council by way of special responsibility allowance under the scheme in relation to any year is conditional on—

- (a) the aggregate amount which that constituent council and any other constituent council have paid out or are already liable to pay out by way of special responsibility allowance under the scheme in relation to that year not exceeding the total of the amounts, if any, which each constituent council has notified to the joint board in accordance with regulation 18(a);
- (b) the aggregate amount which the constituent council has paid out or is already liable to pay out in relation to that year—
  - (i) under the scheme made by the joint board under this Part; and
  - (ii) under the scheme made by the constituent council under Part II; and
  - (iii) in the nature of an attendance allowance under section 47 of the 1973 Act; and
  - (iv) under section 49A of the 1973 Act,  
not exceeding the amount ascertained for that year as mentioned in regulation 13(a) as respects that council; and
- (c) the aggregate amount which the constituent council has paid out or is already liable to pay out by way of special responsibility allowance in relation to that year—
  - (i) under the scheme made by the joint board under this Part; and
  - (ii) under the scheme made by the constituent council under Part II; and
  - (iii) under section 49A of the 1973 Act,  
not exceeding 25 per cent of total estimated allowances for that year as mentioned in Regulation 13(d).

(2) A scheme made by a joint board under this Part shall provide that any payment made by a constituent council to a particular member by way of special responsibility allowance for any year under the scheme is conditional on the aggregate amount in relation to that year of—

- (a) the total of the amounts which each constituent council has paid out or is already liable to pay out to that member by way of special responsibility allowance in relation to that year under that scheme; and
- (b) the total amount which the constituent council has paid out or is already liable to pay out to that member by way of special responsibility allowance in relation to that year under a scheme made under Part II; and

(c) where that member is entitled to an allowance under section 49A of the 1973 Act, the total amount which the constituent council has paid out or is already liable to pay out to that member in relation to that year under the said section 49A, not exceeding £7,500.

### **Elections**

**20.** A scheme made under this Part shall provide that a member may by notice in writing given to the proper officer of the joint board elect to forgo any part of his entitlement to an allowance under the scheme.

### **Making, revocation and amendment of schemes**

**21.**—(1) Subject to paragraph (2), any scheme made under this Part shall be in respect of a year or years and shall be made before the beginning of the first year to which it relates.

(2) Any scheme made under this Part may be amended at any time.

(3) Where an amendment is to be made which relates to a special responsibility allowance payable for the year in which the amendment is made, the scheme shall provide—

(a) that in relation to each of the periods—

(i) beginning with 1st April in that year and ending with the day before that on which the first amendment in that year takes effect; or

(ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) 31st March in that year,

the entitlement to such an allowance shall be to payment of such part of the amount of the allowance under the scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year; and

(b) that, where a member does not have throughout the whole of any period mentioned in sub-paragraph (a) any such special responsibilities as entitle him to a special responsibility allowance, his entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he has such special responsibilities bears to the number of days in the period.

(4) A scheme made under this Part may be revoked with effect from the beginning of a year and any subsequent year.

## **PART V**

### **OTHER ALLOWANCES**

#### **Financial restrictions – allowances under section 45 of the 1973 Act**

**22.** The amount prescribed for the purposes of section 45(4) of the 1973 Act (financial loss allowance) is—

(a) for a period not exceeding 4 hours, £19.25;

(b) for a period exceeding 4 hours but not exceeding 24 hours, £38.50;

- (c) for a period exceeding 24 hours, the aggregate of £38.50 and such amount specified in subparagraph (a) or (b) as is appropriate to the number of hours by which the period exceeds 24 hours.

#### **Financial restrictions – allowances under section 47 of the 1973 Act**

**23.**—(1) Any payment made in respect of any year by a local authority of an allowance under section 47 of the 1973 Act in the nature of an attendance allowance to a member who is a councillor is conditional on the aggregate amount which the local authority in question has paid or is liable to pay for that year by way of—

- (a) such allowances; and
- (b) allowances under a scheme made by the local authority under Part II;
- (c) allowances under a scheme made by a joint board under Part IV; and
- (d) allowances under section 49A of the 1973 Act,

not exceeding the amount ascertained as mentioned in regulation 13(a) as respects that authority.

(2) In any case to which paragraph (1) does not apply, any payment of an allowance under section 47 of the 1973 Act in the nature of an attendance allowance shall not exceed £22.80 for any period not exceeding 24 hours; and for this purpose a period of 24 hours shall be deemed to begin at 3am.

#### **Financial restrictions – allowances under section 49A of the 1973 Act**

**24.** The total amount which a local authority may pay in respect of allowances under section 49A of the 1973 Act in any year shall not exceed £7,500.

## **PART VI**

### **ADMINISTRATIVE ARRANGEMENTS**

#### **Avoidance of duplication**

**25.** A claim for an attendance allowance under a scheme under Part II or an allowance under any provision in sections 45 to 50 of the 1973 Act shall include, or be accompanied by, a statement signed by the claimant that he has not made and will not make any other claim in respect of the matter to which his claim relates.

**26.** No payment shall be made to a person under any provision of sections 45 to 50 of the 1973 Act in respect of any matter as regards which a payment has been made to him pursuant to any provision of a scheme made under Part II or Part IV.

**27.**—(1) A person who, in a period mentioned in regulation 22—

- (a) performs an approved duty or approved duties as a member of more than one body; or
- (b) performs two or more approved duties for the same body; or
- (c) is entitled to an allowance under section 45(4) of the 1973 Act and to a payment of a comparable allowance under any other enactment,

shall not be entitled to payments under that section which in total exceed the amount prescribed by regulation 22 for that period.

(2) A body paying an allowance under section 45(4) of the 1973 Act to a person for an approved duty as described in paragraph (1) may reduce the amount of that allowance by the amount of any

other allowance under the said section 45(4) or any comparable allowance under any enactment paid by another body.

**28.**—(1) A member shall not be entitled to take expenditure on travelling into account for the purposes of more than one claim.

(2) A member shall not be entitled to take any period of absence from his usual place of residence into account for the purposes of more than one claim.

### **Claims for allowances**

**29.**—(1) Any claim for a financial loss allowance under section 45(4) of the 1973 Act shall be made in the form set out in Schedule 3 to these Regulations or in a form substantially to the like effect.

(2) Any claim for a travelling and subsistence allowance under section 46 of the 1973 Act shall be made in the form set out in Schedule 4 to these Regulations or in a form substantially to the like effect.

(3) The forms set out in Schedules 3 and 4 shall apply, with any necessary modifications, to any claim for an allowance under section 47 or 48 of the 1973 Act.

### **Determination of body by whom payments are to be made**

**30.**—(1) Subject to paragraph (2), any payment under section 45(4) or 46 of the 1973 Act shall be made by the body for which the relevant approved duty was performed.

(2) Where an approved duty, in relation to a member of a body, consists of the doing of anything as a member of some other body to which he has been appointed as described in section 49(2)(c) of the 1973 Act and that body falls within any of the paragraphs (c), (d) or (e) of section 49(1) of that Act<sup>(8)</sup>, a payment may be made by either of those bodies.

### **Records of allowances**

**31.**—(1) Every local authority and joint board shall keep a record of the payments made by it in accordance with any scheme made pursuant to these Regulations.

(2) Every authority or body to whom any of sections 45 to 49A of the 1973 Act applies shall keep a record of the payments made by it by virtue of any of those sections.

(3) A record kept pursuant to either of the preceding paragraphs shall specify in relation to each payment –

- (a) the name of the recipient; and
- (b) the amount and nature of the payment.

(4) A record kept pursuant to either of paragraphs (1) or (2) shall be available, at all reasonable times, for inspection (free of charge)—

- (a) where it is kept by a local authority, by any local government elector for the area of that authority;
- (b) where it is kept by any other body, by any local government elector for the area of any local authority in whose area the body operates.

(5) A person entitled to inspect a record under paragraph (4) may make a copy of any part of it.

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(8) 1973 c. 65; subsections (b) and (f) of section 49(1) were repealed by the Local (Government) Scotland Act 1975 (c. 30), Schedule 7.

## PART VII

### REVOCATIONS AND SAVINGS

#### **Revocations and savings**

**32.**—(1) Subject to paragraph (2), the Regulations specified in Schedule 5 are hereby revoked.

(2) Without prejudice to section 16 of the Interpretation Act 1978<sup>(9)</sup>, any revocation by virtue of paragraph (1) shall continue to have effect in relation to claims made for allowances or other payments in respect of duties performed before 1st April 1991.

St. Andrew's House,  
Edinburgh.  
1st March 1991

*Allan Stewart*  
Parliamentary Under Secretary of State, Scottish  
Office

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(9) 1978 c. 30.

## SCHEDULE 1

Regulation 2(1) & (2)

### Political Groups

#### **Constitution of political groups**

1.—(1) A political group shall be treated as constituted in relation to a local authority when there is delivered to the proper officer of the local authority a notice in writing which—

- (a) is signed by two or more members of the local authority who wish to be treated as a political group; and
- (b) complies with the provisions of sub-paragraph (3).

(2) A political group shall cease to be constituted if the number of persons who are to be treated as members of that group is less than two.

(3) A notice under sub-paragraph (1) shall state—

- (a) that the members of the local authority who have signed it wish to be treated as a political group;
- (b) the name of the group; and
- (c) the name of one member of the group who has signed the notice and who is to act as its leader.

(4) A notice under sub-paragraph (1) may specify the name of one other member of the group who has signed the notice and who is authorised to act in the place of the leader when he is unable to act (“the deputy leader”).

(5) The name of the group or the name of the person who is the leader or deputy leader may be changed by a further notice in writing delivered to the proper officer and signed—

- (a) in the case of a change in the name of the group or the deputy leader, by the leader of the group or a majority of the members of the group;
- (b) in the case of a change of the leader of the group, by a majority of the members of the group.

#### **Membership of political groups**

2. Subject to paragraph 4, a member of the local authority is to be treated as a member of a political group if—

- (a) he has signed a notice in accordance with paragraph 1; or
- (b) he has delivered to the proper officer a notice in writing which is signed by him and by the leader or deputy leader of the group or by a majority of the members of the group, stating that he wishes to join the group.

#### **Cessation of membership**

3. A person is to be treated as having ceased to be a member of a political group when—

- (a) he has ceased to be a member of the local authority;
- (b) he has notified the proper officer in writing that he no longer wishes to be treated as a member of the group;
- (c) there is delivered to the proper officer a notice under paragraph 1 or 2(b) signed by the person whereby a new political group is constituted or he joins another political group; or
- (d) there is delivered to the proper officer a notice in writing signed by the majority of the members of the group stating that they no longer wish him to be treated as a member of it.

**Restriction on membership**

4. No person shall be treated as a member of more than one political group at any given time and, accordingly, if a person changes the political group of which he is a member by a notice under paragraph 1 or 2 he shall from the date of delivery of that notice be treated—

- (a) in the case of a notice under paragraph 1, as a member only of the new political group which is constituted in accordance with that paragraph; and
- (b) in the case of a notice under paragraph 2(b) as a member only of the group named in the notice.

## SCHEDULE 2

Regulation 12(2)

## Determination of the standard maximum

The table below is the Table referred to in the definition of “standard maximum” in regulation 12(2).

TABLE

(1) Authority or description of authority	(2) Amount £
1. A regional council with a population:	6,085
(a) exceeding 1 million	
(b) (b) exceeding 600,000 but not exceeding 1 million	5,650
(c) (c) exceeding 250,000 but not exceeding 600,000	4,780
(d) (d) not exceeding 250,000	4,130
2. An islands council	3,585
3. A district council with a population:	5,430
(a) exceeding 600,000	
(b) (b) exceeding 400,000 but not exceeding 600,000	4,780
(c) (c) exceeding 150,000 but not exceeding 400,000	4,130
(d) (d) exceeding 100,000 but not exceeding 150,000	3,585
(e) (e) exceeding 75,000 but not exceeding 100,000	2,990
(f) (f) not exceeding 75,000 and with planning function	2,390
(g) (g) not exceeding 75,000 and with no planning function	1,470

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SCHEDULE 3

Regulation 29(1)

FORM OF APPLICATION FOR FOR FINANCIAL LOSS ALLOWANCE

1 Date	2 Place and time of departure	3 Place and time of return	4 Description of approved duties	5 Period of time to which the claim relates	6 Amount claimed
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Particulars of amounts received or claimed by way of financial loss allowance from any other body—  
I declare that I have actually and necessarily—

- \*(a) suffered loss of earnings which I would otherwise have made
- \*(b) incurred additional expense, other than expense on account of travelling and subsistence, to which I would not otherwise have been subject

for the purpose of enabling me to perform approved duties as a member of .....  
and that the amount of such loss and expense is not less than the amount claimed in column 6 above.

I declare that the statements above are correct. Except as shown above I have not made, and will not make, any claim under any enactment for financial loss allowance in connection with the duties indicated above.

Date ..... Signature of member .....

\*Delete as appropriate

Schedule 4

Regulation 29(2)

FORM OF APPLICATION FOR TRAVELLING AND SUBSISTENCE ALLOWANCES

$$A + (B - C),$$



## SCHEDULE 5

Regulation 32(1)

## REVOCATIONS

Column 1	Column 2
<b>Regulations revoked</b>	<b>References</b>
The Local Authorities (Allowances) (Scotland) Regulations 1975	<a href="#">SI 1975/686</a>
The Local Authorities (Allowances) (Scotland) Amendment (No.2) Regulations 1981	<a href="#">SI 1981/333</a>
The Local Authorities (Financial Loss Allowances for Councillors) (Scotland) Regulations 1982	<a href="#">SI 1982/1396</a>
The Local Authorities (Allowances) (Scotland) Amendment Regulations 1990	<a href="#">SI 1990/1713</a>

**EXPLANATORY NOTE***(This note is not part of the Regulations)*

These Regulations make provision about the payment of allowances to members of local authorities and joint boards and certain related bodies.

Part II of the Regulations requires local authorities to make schemes for the payment to councillors of basic allowances (regulation 6) and special responsibility allowances (regulation 7) and empowers them to include in their schemes provision for attendance allowances (regulation 8).

Part III imposes financial restrictions in relation to schemes made under Part II. There is an overall ceiling (the “relevant maximum”) which is calculated by reference to the “standard maximum” or, if greater, the “transitional maximum” (regulation 13). These terms are defined in regulation 12(2). The Table in Schedule 2 to the Regulations is relevant for the determination of the “standard maximum”. Within that overall ceiling, there are further restrictions on their percentage of the estimated total that may be paid by way of particular allowances and the maximum that an individual may receive by way of special responsibility allowance.

Part IV empowers joint boards to make schemes for the payment of special responsibility allowances to members (regulations 16 and 17) and, for this purpose, any member of a joint board is to be treated as a councillor (regulation 15). Regulation 18 requires local authorities who appoint members to joint boards (“constituent councils”) to notify joint boards of any amounts they may allocate towards the payment of such allowances and makes provision for the apportionment of such payments among constituent councils. Regulation 19 imposes financial restrictions upon the payment of such allowances.

Part V imposes financial restrictions upon allowances payable under sections 45, 47 and 49A of the Local Government (Scotland) Act 1973 (“the 1973 Act”) (regulations 22-24).

Part VI deals with administrative arrangements. Regulations 25 to 28 make provision for the avoidance of duplication. Regulation 29 and Schedules 3 and 4 provide for claim form for allowances

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under sections 45 to 48 of the 1973 Act. Regulation 30 makes provision as to the body by whom certain allowances are to be paid. Regulation 31 requires records to be kept of payments under allowances schemes and under the 1973 Act and provides for public inspection of any such records. Part VII provides for the revocation of certain existing regulations dealing with local authority allowances, subject to certain savings.