
WELSH STATUTORY INSTRUMENTS

2002 No. 1895 (W.196)

LOCAL GOVERNMENT, WALES

**The Local Authorities (Allowances for Members
of County and County Borough Councils and
National Park Authorities) (Wales) Regulations 2002**

Made - - - - *18th July 2002*
Coming into force - - *9th August 2002*

The National Assembly for Wales makes the following Regulations in exercise of the powers given to the Secretary of State by section 18(1), (2), (2A), (3), (3A) and (4) of the Local Government and Housing Act 1989(1) which are now vested in the National Assembly for Wales so far as exercisable in Wales (2) and the powers given to it by sections 100(1) and 105 of the Local Government Act 2000(3):

PART I

General

Name, commencement and application

1.—(1) The name of these Regulations is the Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002 and they shall come into force on 9th August 2002.

(2) These regulations apply to Wales only.

Interpretation

2. In these Regulations—

“alternative arrangements” (“*trefniadau amgen*”) means arrangements for the discharge of the functions of an authority which are of a type described in section 32(1) of the 2000 Act;

“approved duty” (“*dyletswydd a gymeradwywyd*”) means—

(1) 1989 c. 42. Section 18(3A) was inserted by section 99(3), (7) of the Local Government Act 2000 (c. 22).

(2) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).

(3) 2000 c. 22.

- (a) attendance at a meeting of the authority or of any committee of the authority or of any body to which the authority makes appointments or nominations or of any committee of such a body;
- (b) attendance at a meeting of any association of authorities of which the authority is a member;
- (c) attendance at any other meeting the holding of which is authorised by the authority or by a committee of the authority or by a joint committee of the authority and one or more other authorities;
- (d) a duty undertaken for the purpose of or in connection with the discharge of the functions of an executive where the authority is operating executive arrangements within the meaning of Part II of the 2000 Act;
- (e) a duty undertaken in pursuance of a standing order which requires a member or members to be present when tender documents are opened;
- (f) a duty undertaken in connection with the discharge of any function of the authority which empowers or requires the authority to inspect or authorise the inspection of premises;
- (g) attendance at any training or developmental event approved by the authority or its executive or board; and
- (h) any other duty approved by the authority, or any other duty of a class so approved, undertaken for the purpose of, or in connection with, the discharge of the functions of the authority or of any of its committees.

“authority” (“*awdurdod*”) means a county council, a county borough council or a National Park authority;

“board” (“*bwrdd*”) means the committee of a local authority established under regulation 4(1) (a) of the Local Authorities (Alternative Arrangements)(Wales) Regulations 2001(4);

“committee” (“*pwylgor*”) includes a sub-committee;

“controlling group” (“*grwp rheoli*”) means a political group:

- (a) in an authority operating executive arrangements:
 - (i) where those arrangements take the form of a leader and cabinet executive;
 - (ii) with a mayor and cabinet executive; or
 - (iii) with a mayor and council manager; or
- (b) in an authority operating alternative arrangements;

where any of its members form part of an executive or board as in a) or b) above.

“excluded duty” (“*dyletswydd a eithrir*”) means an approved duty in respect of which a member of an authority who is a councillor receives remuneration otherwise than under a scheme made under Part II of these Regulations;

“executive” (“*gweithrediaeth*”) means the executive of an authority in a form as specified in sections 11(2) to (5) of the 2000 Act;

“executive arrangements” (“*trefniadau gweithrediaeth*”) has the meaning given by section 10(1) of the 2000 Act;

“largest opposition group” (“*grwp gwrthbleidiol mwyaf*”) means a political group other than a controlling group which has a greater number of members than any other political group in the authority;

“member” (“*aelod*”) includes a member of a committee or sub-committee;

“other political group” (“*grwp gwleidyddol arall*”) means a political group other than a controlling group or the largest opposition group (if any) which comprises not less than ten per cent of the members of that authority;

“overview and scrutiny committee” (“*pwyllgor trasolygu a chraffu*”) means a committee of the authority which has the powers set out in sections 21(2) and (3) or 32 (1) of the 2000 Act;

“the 1972 Act” (“*Deddf 1972*”) means the Local Government Act 1972(5);

“the 2000 Act” (“*Deddf 2000*”) means the Local Government Act 2000; and

“year” (“*blwyddyn*”) means the twelve months ending with 31st March.

Prescribed relevant authorities

3. County councils, county borough councils and National Park authorities are prescribed as relevant authorities for the purposes of section 100(1)(b) of the 2000 Act.

PART II

Schemes for Councillors' Allowances

Interpretation

4.—(1) Subject to paragraph (2)(b), references in this Part to a member of an authority who is a councillor shall be construed in relation to a National Park authority as references to a member of that authority appointed by a county or county borough council or by the National Assembly for Wales unless the context requires otherwise.

(2) For the purposes of this Part—

- (a) members of an authority are to be treated as divided into political groups if they are so treated for the purposes of section 15 (political balance on committees etc) of the Local Government and Housing Act 1989; and
- (b) the term of office of a member of an authority (other than a National Park authority) who is a councillor shall begin on the date on which that member makes a declaration of acceptance of that office under section 83(1) of the 1972 Act.

Allowance schemes

5.—(1) Each authority shall make a scheme in accordance with these Regulations for the payment of allowances in respect of the current year and subsequent years.

(2) When a scheme is revoked in accordance with regulation 6(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

6.—(1) A scheme made under this Part may be amended or revoked at any time.

(2) Where an amendment is to be made which affects an allowance payable for the year in which the amendment is made, the scheme may provide for the entitlement to such allowance to apply with effect from the beginning of the year in which the amendment is made and,

- (a) if the amendment affects such an allowance as is mentioned in regulation 7 or 8, in relation to each of the periods—
 - (i) beginning with the first day of the year and ending with the day before that on which the first amendment in that year takes effect, and
 - (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 the last day of the year,the entitlement to such an allowance shall be to payment of such proportion of the amount of the allowance under the scheme as it has effect during the relevant period as the number of days in the period bears to the number of days in the year; or
- (b) if the amendment affects such an allowance as is mentioned in regulation 9, 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

7.—(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, the entitlement of that member shall be to payment of such proportion of the basic allowance as the number of days during which the member’s term of office as a councillor subsists during that year bears to the number of days in that year.

(3) Where a scheme is amended as mentioned in paragraph (2) of regulation 6 and the term of office of a member who is a councillor does not subsist throughout the whole of a period mentioned in sub-paragraph (a)(i) or (ii) of that paragraph, the scheme shall provide that the entitlement of any such member under this regulation shall be to payment of such proportion of the basic allowance referable to each such period as the number of days during which the member’s term of office as a councillor subsists in that period bears to the number of days in the period.

(4) A scheme made under this Part shall provide that no more than one basic allowance shall be payable to a member of an authority.

Special responsibility allowances

8.—(1) Subject to paragraph (2), a scheme made under this Part may provide, in accordance with paragraph (3), for the payment for each year to which the 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) the elected mayor of an authority operating executive arrangements which take the form of a mayor and cabinet executive;
- (b) the leader of an authority operating executive arrangements which take the form of a leader and cabinet executive and the elected mayor of an authority operating executive arrangements which take the form of a mayor and council manager executive;
- (c) members of the cabinet of an authority operating executive arrangements which take the form of a leader and cabinet executive and the chair of the board of an authority operating alternative arrangements;

- (d) members of the board of an authority operating alternative arrangements, chairs of overview and scrutiny committees and planning committees, leaders of the largest opposition group in an authority and chairs of National Park authorities;
 - (e) vice-chairs of overview and scrutiny committees, vice-chairs of planning committees, chairs of other committees, members of the cabinet of an authority operating executive arrangements which take the form of a mayor and cabinet executive and vice-chairs of National Park authorities;
 - (f) vice-chairs of committees other than overview and scrutiny committees and planning committees, leaders of any other political group in an authority and chairs and vice chairs of National Park authority committees; and
 - (g) such other activities in relation to the discharge of the authority's functions as have been approved in writing by the National Assembly for Wales.
- (a) (2) (a) A special responsibility allowance may not be paid to more than fifty per cent of the members of the authority (calculated using the total number of seats on the authority and by rounding up the number of members to the next whole number when in calculating the percentage the number is not a whole number).
 - (b) A special responsibility allowance ("the deputy's allowance") payable to a deputy leader of a cabinet in the case of executive arrangements and the vice chair of the board in the case of the alternative arrangements may include a sum equal to no more than ten per cent of the special responsibility allowance payable to a member of the cabinet of an authority operating executive arrangements which take the form of a leader and cabinet executive or a member of a board of an authority operating alternative arrangements (excluding a leader of an authority operating executive arrangements or a chair of board of a council operating alternative arrangements) provided that the deputy's payment is made to not more than one person.
- (3) Any scheme making such provision as is mentioned in paragraph (1) shall provide that—
 - (a) where a member does not have throughout a year any such special responsibilities as entitle a member to a special responsibility allowance, that member's entitlement shall be to payment of such proportion of that allowance as the number of days during which that member has such special responsibilities bears to the number of days in that year; and
 - (b) where a scheme is amended as mentioned in paragraph (2) of regulation 6 and a member does not have throughout the whole of any period mentioned in sub-paragraph (a)(i) or (ii) of that paragraph any such special responsibilities as entitle a member to a special responsibility allowance, that member's entitlement shall be to payment of such proportion of the allowance referable to each such period as the number of days in that period during which that member has such special responsibilities bears to the number of days in the period.

Attendance allowances

9.—(1) A scheme made under this Part by a National Park authority may provide for the payment to each member of the authority who is a councillor of an attendance allowance ("attendance allowance") in respect of an approved duty which is not an excluded duty and the time spent in travelling to and from the location at which the duty is performed.

(2) 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 who are entitled to receive the allowance in respect of a duty of any description at the same time of day and of the same duration.

(3) A 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 specify.

(4) A scheme shall provide that a member shall not be entitled to payment of an attendance allowance

- (a) in respect of an approved duty in relation to which that member is entitled to payment of a financial loss allowance under regulation 11; or
- (b) if such payment would be contrary to a provision made by or under any enactment.

Care allowances

10.—(1) Subject to paragraph (2), a scheme made under this Part by a county or county borough council may provide for the payment to a member of the authority who is a councillor of an allowance (“care allowance”) in respect of such expenses of arranging for the care of children or dependants as are necessarily incurred in the carrying out of that member’s duties as a member.

(2) A scheme made under this Part shall not provide for the payment of—

- (a) a care allowance to a member of the authority who is entitled to receive a special responsibility allowance of an amount which exceeds the amount from time to time specified in writing by the National Assembly for Wales;
- (b) a care allowance in respect of any child over the age of fifteen years or dependent unless the member satisfies the county or county borough council that the child or dependant required supervision which has caused the member to incur expenses that were necessary in respect of the care of that child or dependant in the carrying out of that members duties as a member; or
- (c) a care allowance to more than one member of the authority in relation to the care of the same child or dependant; or
- (d) more than one care allowance to any member of the authority who is unable to demonstrate to the reasonable satisfaction of the authority that the member has to make separate arrangements for the care of different children or dependants.

Financial loss allowance

11. A scheme made under this Part shall provide that any member of an authority who is not a councillor shall be entitled to receive a payment by way of financial loss allowance, that is to say a payment which does not exceed the amount of any loss of earnings necessarily suffered or any additional expenses (other than expenses in relation to travel or subsistence) necessarily incurred in the performance of an approved duty as a member of the authority.

PART III

Schemes — Further Provision

Amount of allowances etc

12.—(1) A scheme under Part II shall specify in respect of any year to which it relates—

- (a) the amount or a means to ascertain the amount of the basic allowance; and
- (b) the amount or a means to ascertain the amount of the special responsibility allowance and, where different amounts apply to different responsibilities, the amount or a means to ascertain the amount applicable to each.

(2) A scheme under Part II may make provision for an annual adjustment of allowances by reference to such index as may be specified by the authority.

Elections

13. A scheme under Part II shall provide that a member may, by notice in writing given to the proper officer of the authority, elect to forgo any part of that member's entitlement to an allowance under the scheme.

Claims and payments

14. A scheme under Part II 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 IV

Other Allowances

Travel and subsistence allowances

15.—(1) Subject to paragraph (2), a member shall be entitled to receive payments by way of travel allowance or subsistence allowance at rates determined each year by the authority where expenditure on travel or subsistence is necessarily incurred by that member in the performance of an approved duty as a member of the authority.

(2) The rates of allowance determined for a year under paragraph (1) for travel by means of a private motor vehicle shall not exceed the rates of the equivalent allowances payable for that year to members of the National Assembly for Wales provided that, where the rate of any such allowance on the day immediately before the day on which these Regulations come into force is already in excess of the rate of the equivalent allowance payable for that year to members of the National Assembly for Wales, the rate of that allowance shall not be increased until the rate of the equivalent allowance payable to members of the National Assembly for Wales is greater than that paid by the authority.

(3) Any claim for payment of travel and subsistence allowances in accordance with these Regulations (excluding claims for travel by means of a private motor vehicle) shall be accompanied by appropriate receipts proving actual expenses, subject to any requirement or limitation that an authority may determine.

PART V

Administrative Arrangements

Avoidance of duplication

16.—(1) A claim for a payment by way of attendance allowance, travel allowance, subsistence allowance or financial loss allowance shall include, or be accompanied by, a statement signed by the member that the member has not made and will not make any other claim in respect of the matter to which the claim relates.

(2) No payment shall be made to a person under any provision of section 176 of the 1972 Act in respect of a matter as regards which a payment has been made to that person pursuant to any provision of a scheme under Part II.

Paying allowances

17. Any payment by way of travel allowance, subsistence allowance or financial loss allowance to a member of an appeal panel constituted under paragraph 1 or 2 of Schedule 24 to the School Standards and Framework Act 1998⁽⁶⁾ shall be paid by the authority which maintains the school or schools in relation to which the panel is constituted.

Records of allowances

18.—(1) Every authority shall keep a record of the payments made by it in accordance with these Regulations or any scheme made pursuant to them.

(2) Such record shall specify the name of the recipient and the amount and nature of each payment and shall be kept available, at all reasonable times, for inspection (free of charge) by any local government elector (within the meaning of section 270(1) of the 1972 Act) for the area of the authority;

(3) A person who is entitled to inspect a record under paragraph (2) may make a copy of any part of it upon payment of such reasonable fee as may be required by the authority.

Publicity

19.—(1) Every authority shall, as soon as practicable after the making or amendment of any scheme made pursuant to these Regulations, make arrangements for its publication within the authority's area.

(2) As soon as practicable after the end of a year to which a scheme relates, every authority shall make arrangements for the publication within the authority's area of the total sum paid by it in that year under the scheme to each member in respect of each of the following, namely, basic allowance, special responsibility allowance, attendance allowance and care allowance.

PART VI

Revocations and savings

Revocations, savings and modifications

20.—(1) The Local Authorities (Members' Allowances) Regulations 1991⁽⁷⁾ shall continue to have effect without prejudice to section 16 of the Interpretation Act 1978⁽⁸⁾, in relation to claims made for allowances or other payments in respect of duties performed before 1st April 2002.

(2) Subject to paragraph (1) the 1991 Regulations are hereby revoked in so far as they applied to county and county borough councils and National Park authorities.

(3) Sections 174, 175 and 177 of the 1972 Act shall not apply to county and county borough councils and National Park authorities.

(4) In its application to county and county borough councils and National Park authorities subsection (2) of section 176 to the 1972 Act shall have effect as if the reference to section 174 of the 1972 Act was a reference to The Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities)(Wales) Regulations 2002 and as if the reference to an approved duty was a reference to that term as defined in the regulations.

(6) 1998 c. 31.

(7) S.I. 1991/351 as amended.

(8) 1978 c. 30.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽⁹⁾

18th July 2002

John Marek
The Deputy Presiding Officer of the National
Assembly

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 18 of the Local Government and Housing Act 1989 provides the power for the Secretary of State to authorise or require any relevant authority specified in the Regulations to make a scheme providing for the payment of:

- a basic allowance to councillors; and
- an attendance allowance to councillors; and
- a special responsibility allowance for councillors with special responsibilities.

This power is now vested in the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999.

Section 100 of the Local Government Act 2000 (“the 2000 Act”) provides for the National Assembly for Wales to make provision by regulations with respect to travelling and subsistence allowances payable to members of such relevant authorities as may be prescribed.

These Regulations require county and county borough councils (whether operating executive arrangements in accordance with the 2000 Act or alternative arrangements in accordance with section 32(1) of the 2000 Act) and National Park Authorities in Wales to make a scheme for the payment of allowances in respect of the current year and subsequent years.

Regulation 3 prescribes county, county borough councils and National Parks as relevant authorities for the purposes of section 100 (1) of the 2000 Act.

Regulation 5 provides that where a scheme, made under these regulations, is revoked an authority must ensure that a further scheme is in place to take effect from the date of any such revocation, whilst Regulation 6 provides that a scheme may be amended or revoked at any time. Where a scheme is amended provision may be made for entitlement to allowances to apply from the beginning of the year in which any amendment is made.

Regulation 7 requires a scheme to contain provisions relating to a “basic allowance” for councillors. Only one “basic allowance” per member shall be payable under a scheme. Regulation 8 gives authorities discretion to make provision for “special responsibility allowances”. The categories, which may be used for the payment of “special allowances” are set out in Regulation 8(1). Such allowances are not payable, by virtue of Regulation 8(2), to more than half the members of an authority (calculated by reference to total seats on the authority). It also allows councils to provide for an additional sum of ten per cent to be paid to a deputy cabinet leader or a vice chair of a board as part of a special responsibility allowance.

Regulation 9 gives discretion to a National Park Authority to provide in a scheme for “attendance allowances” for councillors in respect of “approved duties”.

Regulation 10 provides for a scheme, made by a county or county borough council, to include a “care allowance” for members in respect of expenses of arranging for the care of children (of fifteen or less) or dependants incurred in the carrying out of duties as a member.

Regulation 11 provides that a scheme made under Part II shall provide for any member of an authority who is not a councillor to receive a payment by way of “financial loss allowance” not exceeding the amount of any loss of earnings suffered or additional expenses incurred in their role as a member.

Regulation 12 requires that a scheme under Part II shall specify the amount of the “basic allowance” or a means to ascertain that amount and also the means to ascertain any “special responsibility

allowance” (or different amounts payable in respect of special responsibilities). Regulation 12 also gives authorities discretion as to whether to include in a scheme made under Part II provision for the annual adjustment of allowances by reference to such index as the authority may specify.

A scheme under Part II shall contain a provision to allow a member to forgo any part of their entitlement under the scheme by virtue of Regulation 13 and may, under Regulation 14, set out the times for payments of allowances to be made (which may be different for different allowances).

Regulation 15 provides for payment of travel or subsistence to members, at rates to be determined each year. Those rates are to be linked to rates payable to Members of the National Assembly for Wales in so far as they shall not exceed rates received by Assembly Members. Travel and subsistence claims (except claims relating to travel by private motor vehicle) are to be made on an “actual” basis and must be accompanied by relevant receipts for expenditure incurred, subject to any requirement or limitation determined by an authority.

Regulation 16 provides for all claims made for attendance allowance, travel allowance, subsistence allowance or financial loss allowance to be accompanied by a statement that the claimant has not and will not make any other claim in respect of the matter to which the claim relates. It also prevents payments under section 176 of the Local Government Act 1972 (“the 1972 Act”) where payments are made under a scheme under Part II of these Regulations.

Regulation 17 relates to allowances made to members of an appeal panel constituted under paragraph 1 or 2 of Schedule 24 to the School Standards and Framework Act 1998. Such payments are required to be paid by the authority, which maintains the school, or schools, to which the panel relates.

Regulation 18 requires every authority to keep a record of any payments made in accordance with these Regulations or any scheme made under them, giving details of the recipient and the nature of the payment. That information should be available for inspection (free of charge) by any local government elector. Copies of the information may be obtained for payment of a reasonable fee to an authority.

In accordance with Regulation 19 any scheme made under these Regulations must be publicised in the authority’s area as soon as practical after it is made. As soon as practicable after the end of a year to which a scheme relates, each authority shall publish details of the total sum paid under the scheme to each member in respect of basic, special responsibility, attendance and care allowances.

Regulation 20 provides that the Local Authorities (Members' Allowances) Regulations 1991 (the 1991 Regulations”) continue to have effect in relation to claims for duties predating 1st April 2002. Subject to certain provisions in these Regulations the 1991 Regulations are revoked. It also excludes county and county borough councils and National Park authorities from the effects of sections 174, 175 and 177 of the Local Government Act 1972. Section 176 (Payment of expenses of official and courtesy visits, etc) of the 1972 Act is modified in its application to county, county borough and National Park authorities.