
WELSH STATUTORY INSTRUMENTS

2003 No. 895 (W.115)

LOCAL GOVERNMENT, WALES

The Local Authorities (Allowances for Members of Community Councils) (Wales) Regulations 2003

Made - - - - 26th March 2003

Coming into force - - 1st April 2003

The National Assembly for Wales makes the following Regulations in exercise of the powers given to the Secretary of State by sections 173(1), (2) and (4), 175(1A), 177(1)(c), 177(2), 178(1) and 270(1) of the Local Government Act 1972⁽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),(4),(5),(6) and (7) and 105(2) of the Local Government Act 2000⁽³⁾(having consulted such representatives of local government and such other persons as it considers necessary).

PART I

General

Name, commencement and application

1.—(1) The name of these Regulations is the Local Authorities (Allowances for Members of Community Councils) (Wales) Regulations 2003 and they shall come into force on 1st April 2003.

(2) These Regulations apply to Wales only.

Interpretation

2. In these Regulations —

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

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

(1) 1972 c. 70.

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

(3) 2000 c. 22.

“the 1991 Regulations” (“*Rheoliadau 1991*”) means the Local Authorities (Members Allowances) Regulations 1991 as amended⁽⁴⁾;

“the 2001 Regulations” (“*Rheoliadau 2001*”) means the Local Authorities (Members Allowances) (Amendment) (Wales) Regulations 2001⁽⁵⁾;

“authority” (“*awdurdod*”) means a community council;

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

Prescribed bodies and relevant authorities

3. Community Councils are prescribed as relevant authorities for the purposes of section 100(1) (b) of the 2000 Act.

PART II

Councillors' Allowances

Interpretation

4.—(1) References in this Part to a member of an authority who is a councillor shall be construed as references to an elected member of an authority and references to a member who is not a councillor shall be construed as references to a member who is a co-opted member of an authority.

(2) For the purposes of this Part the term of office of a member of an 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(4) of the 1972 Act.

Attendance allowances

5.—(1) The amount prescribed for the purpose of section 173(1) of the 1972 Act (Attendance allowance) is £32.46 for any period not exceeding 24 hours and for this purpose a period of 24 hours shall begin at 3am.

(2) A member shall not be entitled to payment of more than one attendance allowance in respect of any period of 24 hours.

(3) 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 section 173 of the 1972 Act; or
- (b) if such payment would be contrary to a provision made by or under any enactment.

Financial loss allowance

6. The amount prescribed for the purposes of section 173(4) of the 1972 Act (financial loss allowance) is —

- (a) for a period not exceeding 4 hours, £30.05;
- (b) for a period exceeding 4 hours but not exceeding 24 hours, £60.11;

(4) S.I. 1991/351 amended by the Local Authorities (Members Allowances) (Amendment) (Wales) Regulations 2001 (S.I. 2001/2781 (W.234)).

(5) S.I. 2001/2781 (W.234).

- (c) for a period exceeding 24 hours, the aggregate of £60.11 and such amount specified in subparagraph (a) or (b) as is appropriate to the number of hours by which the period exceeds 24 hours.

PART III

Allowances — Further Provision

Amount of allowances etc.

7. In relation to allowances under Part II an authority shall subject to Regulations 5 and 6 make provision for an annual adjustment of those allowances from 1st April each year equal to the figure published for the previous year as the percentage increase (if any) for the Average Male Non-Manual Wage for Wales index in the New Earnings Survey published by the Office of National Statistics.

Elections

8. 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 these Regulations.

PART IV

Other Allowances

Definition of “approved duty”

9.—(1) Subject to the duties excluded by paragraph (2), for the purposes of sections 173, 175 and 176 of the 1972 Act “approved duty” means —

- (a) any of the following duties —
 - (i) attendance at 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 or nominations, or of any committee or sub-committee of such a body;
 - (ii) attendance at any other meeting the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and one or more other authorities, or a sub-committee of such a joint committee, provided that —
 - (aa) 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
 - (bb) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
 - (iii) attendance at a meeting of any association of authorities of which the authority is a member; and
 - (iv) attendance at any training or developmental event approved by the authority.
- (b) any duties undertaken on behalf of the authority —
 - (i) in pursuance of any Standing Order requiring a member or members to be present while tender documents are opened;

- (ii) in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises; and
 - (c) any other duty approved by an authority, or any duty of a class so approved, for the purpose of, or in connection with the discharge of its functions, or any of its committees or sub-committees.
- (2) The duties excluded by this paragraph are those in respect of which the member receives remuneration otherwise than under Part II.

Allowances for attending conferences and meetings — financial restrictions on allowances under section 175 of the 1972 Act

10. Any payment of an allowance under section 175 of the 1972 Act in the nature of an attendance allowance (other than such a payment by an authority to which Part II of these Regulations applies to a member who is a councillor) shall not exceed £32.46 for any period not exceeding 24 hours and for this purpose a period of 24 hours shall begin at 3am.

Travel and subsistence allowances

11.—(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 may continue at that level but 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.

(4) A member shall not be entitled to any payment under this Regulation in respect of the performance as such a member of an approved duty within the community, or in the case of a community grouped under a community council, the area of that group.

PART V

Administrative Arrangements

Avoidance of duplication

12.—(1) A claim for a payment by way of attendance allowance, financial loss allowance, allowances for attending conferences and meetings, travel allowance and subsistence 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 these Regulations.

(3) A person who, in a period mentioned in regulation 5 or regulation 6 —

- (a) performs an approved duty or approved duties as a member of more than one body,
- (b) performs two or more approved duties for the same body, or
- (c) is entitled to an allowance under section 173 of the 1972 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 regulations 5 or 6 as appropriate for that period.

(4) A body paying an allowance under section 173 of the 1972 Act to a person for an approved duty as described in paragraph (3) may reduce the amount of that allowance by the amount of any other allowance under section 173 or any comparable allowance under any enactment paid by another body.

Records of allowances

13.—(1) Every authority shall keep a record of the payments made by it in accordance with these Regulations.

(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 request a copy of any part of it upon payment of such reasonable fee as may be required by the authority.

Publicity

14. As soon as practicable after the end of a financial year every authority shall make arrangements for the publication within the authority's area of the total sum paid by it in that year to each member in respect of attendance allowance and financial loss allowance.

PART VI

Revocations and savings

Revocations and savings

15.—(1) The 1991 Regulations and the 2001 Regulations shall continue to have effect without prejudice to section 16 of the Interpretation Act 1978⁽⁶⁾, in relation to claims made for allowances or other payments in respect of duties performed before 1st April 2003.

(2) Subject to paragraph (1) the 1991 Regulations and the 2001 Regulations are hereby revoked in so far as they applied to community councils.

(3) Section 174 of the 1972 Act shall not apply to community councils.

(6) 1978 c. 30.

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

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(7)

26th March 2003

D. Elis-Thomas
The Presiding Officer of the National Assembly

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 173, 175, 177 and 178 of the Local Government Act 1972 (“the 1972 Act”) provide powers, respectively, for the Secretary of State to:

- prescribe an amount in respect of an attendance allowance or a financial loss allowance payable for the performance of an approved duty;
- prescribe a body to which section 175 (Allowances for attending conferences and meetings) applies;
- specify duties in relation to a member of a body for the purpose of the definition of “approved duty” in sections 173 to 176 of the 1972 Act;
- make regulations as to the manner in which sections 173 to 176 of the 1972 Act are to be administered.

These powers are 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 allowances payable to members of community councils and travelling and subsistence allowances payable to members of authorities which it may prescribe.

Regulation 3 prescribes community councils as relevant authorities for the purposes of section 100(1) of the 2000 Act.

Regulation 5 prescribes £32.46 for the purposes of section 173(1) of the 1972 Act (Attendance allowance) as the maximum sum payable for any period not exceeding 24 hours and limits the number of such payments in any 24 hours to one.

The payment of attendance allowance is also prohibited where a member is entitled to financial loss allowance (in accordance with section 173 of the 1972 Act) or where such a payment would be contrary to any enactment.

Regulation 6 prescribes amounts for the purposes of section 173(4) of the 1972 Act (Financial loss allowance):

- (a) £30.05 for a period not exceeding four hours;
- (b) £60.11 for a period exceeding four hours but not exceeding twenty four hours;
- (c) £60.11 plus such amount as is payable under (a) or (b) as appropriate for a period exceeding twenty-four hours.

Regulation 7 requires (subject to Regulations 5 and 6) authorities to make provision in relation to allowances under Part II for an annual adjustment of those allowances (effective from 1st April in each year) by reference to the figure published for the previous year for the Average Male Non-Manual Wage for Wales index in the New Earnings Survey published annually by the Office of National Statistics.

Regulation 8 provides for a member to choose to forgo any part of their entitlement under these Regulations.

Regulation 9 sets out those duties which amount to an “approved duty” for the purposes of sections 173 to 176 of the 1972 Act.

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Regulation 10 places financial restrictions on allowances under section 175 of the 1972 Act (allowances for attending conferences and meetings) by limiting the maximum sum payable to £32.46 for any period not exceeding twenty four hours.

Regulation 11 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. The exception to this is where on the day before the coming into force of these Regulations the rates paid by an authority are in excess of the rate of the equivalent allowance payable to members of the National Assembly for Wales. In such circumstances the rates paid by the authority may continue at that level but shall not be increased until the equivalent allowance payable to members of the National Assembly for Wales is greater than that paid by the authority. 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. A member cannot claim allowances under Regulation 11 where any approved duty is performed within their community or community council area as appropriate.

Regulation 12 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 1972 Act where payments are made under these Regulations.

Regulation 13 requires every authority to keep a record of any payments made in accordance with these Regulations, 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 14 as soon as practicable after the end of a financial year each authority shall publish details of the total sum paid under these Regulations to each member in respect of attendance basic allowance and financial loss allowance.

Regulation 15 provides that the Local Authorities (Members' Allowances) Regulations 1991 (“the 1991 Regulations”) and the Local Authorities (Members Allowances) (Amendment) (Wales) Regulations 2001 (“the 2001 Regulations”) continue to have effect in relation to claims for duties predating 1st April 2003. Subject to certain provisions in these Regulations the 1991 and 2001 Regulations are revoked. Regulation 15 disapplies section 174 of the 1972 Act in its application to Wales.