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WELSH STATUTORY INSTRUMENTS

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**2007 No. 1086 (W.115)**

**LOCAL GOVERNMENT, WALES**

**The Local Authorities (Allowances for Members) (Wales) Regulations 2007**

*Made* - - - - - *28 March 2007*

*Coming into force in accordance with regulation 1(1)*

The National Assembly for Wales makes the following Regulations in exercise of the powers given to the Secretary of State by section 18 of the Local Government and Housing Act 1989<sup>(1)</sup> which are now vested in the National Assembly for Wales so far as exercisable in Wales<sup>(2)</sup> and the powers given to it by sections 100 and 105 of the Local Government Act 2000<sup>(3)</sup>, having carried out such consultation as is required by section 100(5) of the Local Government Act 2000:

**PART 1**

General

**Title, commencement and application**

1.—(1) The title of these Regulations is the Local Authorities (Allowances for Members) (Wales) Regulations 2007 and these Regulations come into force on—

- (a) for the purposes of —
  - (i) this regulation;
  - (ii) regulation 2;
  - (iii) Part 6;
  - (iv) paragraphs (1), (5) to (8), (10) to (13), (15), (18), (19) and (21) to (23) of regulation 40;
  - (v) paragraphs (1), (5), (6), (7) and (11) to (13) of regulation 41; and
  - (vi) regulation 43,

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(1) 1989 c. 42; section 18 was amended by the Police and Magistrates' Courts Act 1994 (c. 29), Schedule 4, paragraph 37; the Education Act 1996 (c. 56), Schedule 37, paragraph 97; and the Local Government Act 2000 (c. 22), section 99.  
(2) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).  
(3) 2000 c. 22; by virtue of section 106(1) of the Local Government Act 2000, section 105 has effect, in its application to Wales, as if for any reference to the Secretary of State there were substituted a reference to the National Assembly for Wales.

on 1 June 2007; and

- (b) for all other purposes, on the day that is four months after the day on which the National Assembly for Wales receives, in accordance with regulation 39(1), the report produced by the Panel under regulation 34.

(2) These Regulations apply in relation to Wales.

## Interpretation

2. In these Regulations —

“the 1972 Act” (“*Deddf 1972*”) means the Local Government Act 1972<sup>(4)</sup>;

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

“the 2002 Regulations” (“*Rheoliadau 2002*”) means the Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002<sup>(5)</sup>;

“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;

“annual report” (“*adroddiad blynyddol*”) means a report produced by the Panel in accordance with regulation 35 of these Regulations;

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

- (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 or a county borough council;

“basic allowance” (“*lwfans sylfaenol*”) has the same meaning as in regulation 7 of these Regulations;

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(4) 1972 c. 70.

(5) S.I. 2002/1895 (W.196).

“board” (“*bwrdd*”) means the committee of an authority established under regulation 4 of the Local Authorities (Alternative Arrangements) (Wales) Regulations 2007(6);

“care allowance” (“*lwfans gofal*”) has the same meaning as in regulation 9 of these Regulations;

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

“co-opted member” (“*aelod cyfetholedig*”) means in relation to an authority a person who is not a member of the authority but who —

- (a) is a member of any committee or sub-committee of the authority; or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

“co-optees' allowance” (“*lwfans aelodau cyfetholedig*”) has the same meaning as in regulation 16 of these Regulations;

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

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

“fire and rescue authority” (“*awdurdod tân ac achub*”) means a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies(7);

“Fire and Rescue Authority Regulations” (“*Rheoliadau Awdurdod Tân ac Achub*”) means the Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004(8);

“initial report” (“*adroddiad cychwynnol*”) means the report produced by the Panel in accordance with regulation 34;

“member” (“*aelod*”) includes in respect of Parts 2 to 5 of these Regulations and unless otherwise expressly stated a co-opted member and a member of a committee or sub-committee;

“National Park authority” (“*awdurdod Park Cenedlaethol*”) means a National Park authority established under section 63 of the Environment Act 1995(9);

“Panel” (“*Panel*”) means the panel established in accordance with Part 6 of these Regulations;

“proper officer” (“*swyddog priodol*”) has the same meaning as in section 270(3) of the 1972 Act;

“scheme” (“*cynllun*”) means a scheme for the payment of allowances made in accordance with Parts 2 and 3 of these Regulations;

“special responsibility allowance” (“*lwfans cyfrifoldeb arbennig*”) has the same meaning as in regulation 8 of these Regulations;

“supplementary report” (“*adroddiad atodol*”) means a report produced by the Panel in accordance with regulation 36 of these Regulations;

“travelling and subsistence allowances” (“*lwfansau teithio a chynhaliaeth*”) has the same meaning as in regulation 15 of these Regulations; and

“year” (“*blwyddyn*”) means—

(6) S.I. 2007/397 (W. 43).

(7) 2004 c. 21.

(8) S.I. 2004/2555 (W.227) as amended by S.I. 2005/2929 (W.214).

(9) 1995 c. 25.

- (a) for the purposes of regulation 28(2), a period of twelve months;
- (b) for the purposes of regulation 29(1), any period of twelve months ending on 31 December; and
- (c) for all other purposes —
  - (i) the period beginning on the date of the coming into force of these Regulations in accordance with regulation 1(1)(b) and ending on 31 March 2009; and
  - (ii) any period of 12 months ending on 31 March thereafter.

### **Prescribed relevant authorities**

3. Authorities are prescribed as relevant authorities for the purposes of section 100(1)(b) and (c) of the 2000 Act.

## **PART 2**

### **Schemes for Members' Allowances**

#### **Interpretation**

4. The term of office of a member of an authority who is a councillor begins on the date on which that member makes a declaration of acceptance of that office under section 83(1) of the 1972 Act.

#### **Allowances Schemes**

5.—(1) An authority must make a scheme in accordance with these Regulations for the payment of allowances in respect of each year.

(2) When a scheme is revoked in accordance with regulation 6(1), an authority must 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 if the amendment affects basic allowance or special responsibility allowance in relation to each of the periods —

- (a) 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
- (b) 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 is 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.

## **Basic allowances**

7.—(1) A scheme made under this Part must 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 must be the same for each such member.

(2) The amount of entitlement in respect of each member of an authority who is a councillor by way of basic allowance must not, subject to regulation 11 and paragraphs (1) to (3) of regulation 12, exceed the amount prescribed by the Panel for that authority in—

- (a) other than where sub-paragraph (b) applies, the initial report in pursuance of regulation 34(1)(b)(i);
- (b) a supplementary report, the relevant provisions of which for the time being apply.

(3) A scheme must 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 is to 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.

(4) 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) or (b) of that paragraph, the scheme must provide that the entitlement of any such member under this regulation is to payment of such proportion of the basic allowance applicable to each such period as represents the number of days the member’s term in office subsists in that period as a proportion of the number of days in the period.

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

(6) A scheme must specify that where a member is suspended or partially suspended from that member’s responsibilities or duties as a member of the authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of basic allowance payable to that member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the authority.

## **Special responsibility allowances**

8.—(1) Subject to paragraphs (2) to (5), a scheme made under this Part may provide 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 that authority as are —

- (a) prescribed by the Panel for that authority in
  - (i) the initial report; or
  - (ii) any supplementary report; and
- (b) specified in the scheme.

(2) 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).

(3) The amount of entitlement in respect of a special responsibility by way of special responsibility allowance payable by an authority must not, subject to regulation 11 and paragraphs (1) to (3) of regulation 12, exceed the amount prescribed by the Panel for that special responsibility and that authority in -

- (a) other than where sub-paragraph (b) applies, the initial report in pursuance of regulation 34(1)(b)(ii);

- (b) a supplementary report, the relevant provisions of which for the time being apply.
- (4) An authority must not pay more than one special responsibility allowance to a member who is a councillor of that authority.
- (5) Any scheme making such provision as is mentioned in paragraph (1) must 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 is 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) or (b) of that paragraph any such special responsibilities as entitle a member to a special responsibility allowance that member's entitlement is to payment of such proportion of the allowance applicable to each such period as represents the number of days the member's term in office subsists in that period as a proportion of the number of days in the period.
- (6) A scheme must specify that where a member is suspended or partially suspended from that member's responsibilities or duties as a member of an authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of special responsibility allowance payable to that member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the authority.

### **Care allowances**

- 9.—(1) Subject to paragraph (2), a scheme 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 must not provide for the payment of—
    - (a) a care allowance in respect of any child over the age of fifteen years or dependant unless the member satisfies the authority 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;
    - (b) a care allowance to more than one member of the authority in relation to the care of the same child or dependant; or
    - (c) 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.
  - (3) The amount of entitlement in respect of a member who is a councillor of an authority by way of care allowance must not, subject to regulation 11 and paragraphs (1) to (3) of regulation 12, exceed the amount prescribed by the Panel for that authority in—
    - (a) other than where sub-paragraph (b) applies, the initial report in pursuance of regulation 34(1)(b)(iii);
    - (b) a supplementary report, the relevant provisions of which for the time being apply.
  - (4) A scheme must specify that where a member is suspended or partially suspended from that member's responsibilities or duties as a member of an authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of care allowance payable to that member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the authority.

## PART 3

### Schemes — Further Provision

#### Amount of allowances

**10.** A scheme must 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 special responsibility allowance and, where different amounts apply to different responsibilities, the amount or means to ascertain the amount applicable to each.

**11.** For the purposes of the period beginning on the date of the coming into force of these regulations in accordance with regulation 1(1)(b) and ending 31 March 2009 (“the first year”), the amount of entitlement of —

- (a) basic allowance;
- (b) special responsibility allowance; and
- (c) care allowance,

payable by an authority must not exceed such proportion of the maximum amount payable by way of each of those allowances as prescribed by the Panel as the number of days in the first year bears to the number of days in the period of twelve months ending 31 March 2009.

**12.—(1)** Subject to paragraphs (2) and (3), a scheme may make provision for an annual adjustment of allowances.

(2) Subject to paragraph (3), an annual adjustment to an allowance payable by an authority for any year -

- (a) must not exceed the amount prescribed by the Panel for —
  - (i) that allowance;
  - (ii) that authority; and
  - (iii) that year,

in an annual report or a supplementary report produced in pursuance of, respectively, regulation 35 or regulation 36; and

- (b) may only be made by reference to an index if the Panel has prescribed that such an index be used for that purpose -
  - (i) in relation to that allowance;
  - (ii) by that authority; and
  - (iii) for that year,

in an annual report or a supplementary report produced in pursuance of, respectively, regulation 35 or regulation 36.

(3) In the event that the Panel produces a supplementary report which prescribes matters described in paragraph (2)(a) or (b), an authority to which that report applies may —

- (a) for the year to which the supplementary report relates; and
- (b) in relation to the matters so prescribed,

make an adjustment of allowances payable by it for that year, notwithstanding that the authority may have made an adjustment of allowances under paragraph (1) in consequence of an earlier annual report produced by the Panel for that year.

(4) A scheme may provide that where payment of any allowance has already been made in respect of any period during which the member concerned —

- (a) is suspended or partially suspended from that member's responsibilities or duties as a member of the authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part;
- (b) ceases to be a member of the authority; or
- (c) is in any other way not entitled to receive the allowance in respect of that period,

the authority may require that such part of the allowance as relates to any such period be repaid to the authority.

#### **Elections to forgo allowances**

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

#### **Payments**

**14.** A scheme 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 4**

### **Other Allowances**

#### **Travelling and subsistence allowances**

**15.—**(1) Subject to paragraph (2), a member is entitled to receive payments by way of travelling and subsistence allowances 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 allowances determined for a year by an authority under paragraph (1) must not, subject to regulation 20, exceed the rates for travelling and subsistence allowances prescribed by the Panel for that authority in—

- (a) other than where sub-paragraph (b) applies, the initial report in pursuance of regulation 34(1)(b)(iv) and (v);
- (b) a supplementary report, the relevant provisions of which for the time being apply.

(3) Where a member is suspended or partially suspended from that member's responsibilities or duties as a member in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, travelling and subsistence allowances payable to that member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the authority.

#### **Co-optees' allowance**

**16.—**(1) Subject to paragraph (2), an authority may provide for the payment of an allowance for each year to a co-opted member who has such responsibilities or duties in respect of attendance at conferences or meetings as are prescribed by the Panel.



(2) The amount of entitlement in respect of a co-opted member by way of co-optees' allowance must not, subject to regulations 19 and 20, exceed the amount prescribed by the Panel for that authority in -

(a) other than where sub-paragraph (b) applies, the initial report in pursuance of regulation 34(1)(b)(vi);

(b) a supplementary report, the relevant provisions of which for the time being apply.

(3) Subject to paragraph (2) and regulation 20 an authority may amend the amount of entitlement of co-optees' allowance for a year at any time in that year.

(4) Where an authority makes such an amendment, whether in pursuance of regulation 20 or otherwise, that authority may provide for the amount of entitlement to co-optees' allowance as amended to apply with effect from the beginning of the year in which the amendment is made.

(5) Where the term of office of a co-opted member comprises part only of a year the entitlement of that co-opted member is to payment of such proportion of co-optees' allowance as the number of days on which that office is held during the year bears to the number of days in that year.

(6) Where a co-opted member is suspended or partially suspended from that co-opted member's responsibilities or duties as a co-opted member of an authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, any co-optees' allowance payable to that co-opted member in respect of the responsibilities or duties from which that co-opted member is suspended or partially suspended must be withheld by the authority.

#### **Elections to forgo allowances under Part 4**

17.—(1) A member may, by notice in writing given to the proper officer of the authority, elect to forgo that member's entitlement or any part of that member's entitlement to travelling and subsistence allowances.

(2) A co-opted member may, by notice in writing given to the proper officer of the authority, elect to forgo that co-opted member's entitlement or any part of that co-opted member's entitlement to co-optees' allowance.

#### **Claims**

18.—(1) An authority must specify a time limit from the date on which an entitlement to travelling or subsistence allowances arises during which a claim for those allowances must be made by the person to whom those allowances are payable.

(2) Any claim for payment of travelling or subsistence allowance 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.

(3) Nothing in paragraph (1) prevents an authority from making a payment where the allowance is not claimed within the period so specified.

#### **Further provision for allowances under Part 4**

19. For the purposes of the period beginning on the date of the coming into force of these Regulations in accordance with regulation 1(1)(b) and ending on 31 March 2009 ("the first year"), the amount of entitlement in respect of co-optees' allowance payable by an authority must not exceed such proportion of the maximum amount of that allowance as prescribed by the Panel as the number of days in the first year bears to the number of days in the period of twelve months ending 31 March 2009.

**20.**—(1) Subject to paragraphs (2) and (3), an authority may make provision for an annual adjustment of allowances payable under this Part.

(2) Subject to paragraph (3), an authority's annual adjustment to an allowance payable under this Part and for any year —

(a) must not exceed the amount prescribed by the Panel for —

- (i) that allowance;
- (ii) that authority; and
- (iii) that year,

in an annual report or a supplementary report produced in pursuance of, respectively, regulation 35 or regulation 36;

(b) may only be made by reference to an index if the Panel has prescribed that such an index be used for that purpose -

- (i) in relation to that allowance;
- (ii) by that authority; and
- (iii) for that year,

in an annual report or supplementary report produced in pursuance of, respectively, regulation 35 or regulation 36.

(3) In the event that the Panel produces a supplementary report which prescribes matters described in paragraph (2)(a) or (b), an authority to which that report applies may—

- (a) for the year to which the supplementary report relates; and
- (b) in relation to the matters so prescribed,

make an adjustment of allowances payable by it for that year, notwithstanding that the authority may have made an adjustment of allowances under paragraph (1) in consequence of an earlier annual report produced by the Panel for that year.

**21.** An authority may provide that where payment of an allowance under this Part has already been made in respect of any period during which the member concerned —

- (a) is suspended or partially suspended from that member's responsibilities or duties as a member in accordance with Part III of the 2000 Act or regulations made under that Part;
- (b) ceases to be a member of the authority; or
- (c) is in any way not entitled to receive the allowance in respect of that period,

the authority may require that such part of the allowance as relates to any such period be repaid to the authority.

## **PART 5**

### Administrative Arrangements

#### **Avoidance of duplication**

**22.**—(1) A claim for a payment by way of travelling allowance or subsistence allowance must 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 may 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 2 of these Regulations.

### **Paying allowances**

**23.** Any payment by way of travelling allowance or subsistence allowance to a member of an appeal panel constituted in accordance with regulations under section 94 of the School Standards and Framework Act 1998<sup>(10)</sup> must be paid by the authority which maintains the school or schools in relation to which the appeal panel is constituted.

### **Records of allowances**

**24.**—(1) An authority must keep a record of the payments made by it in accordance with these Regulations or any scheme made pursuant to them.

(2) Such record must —

- (a) specify the name of the recipient and the amount and nature of each payment; and
- (b) be 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**

**25.**—(1) An authority must, 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, an authority must 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 who is a councillor in respect of each of the following—

- (a) basic allowance;
- (b) special responsibility allowance; and
- (c) care allowance.

(3) As soon as practicable after the end of a year, an authority must 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 the following—

- (a) travelling allowance;
- (b) subsistence allowance; and
- (c) co-optees' allowance.

## **PART 6**

### **The Independent Remuneration Panel for Wales**

#### **Establishment of the Panel**

**26.** The National Assembly for Wales must appoint a permanent panel known as the Independent Remuneration Panel for Wales.

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<sup>(10)</sup> 1998 c. 31; section 94 was amended by the Education Act 2002 (c. 31), section 51, see the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 (S.I. 2005/1398) (W.112).

### Membership of the Panel

27.—(1) The Panel appointed under regulation 26 must consist of a Chairperson and a Vice-chairperson, together with three other members.

(2) The National Assembly for Wales is to appoint one member of the Panel as Chairperson of the Panel.

(3) No person is to be a member of the Panel if that person is disqualified by virtue of paragraph (4).

(4) The following persons are disqualified from membership of the Panel —

- (a) a member of the National Assembly for Wales, the House of Commons, the House of Lords, the European Parliament, an authority, a town or community council; or
- (b) a person who is disqualified from(11) being or becoming a member of an authority other than as an officer in the employment of an authority.

### Tenure of Panel members

28.—(1) A person appointed as a member of the Panel must hold and vacate office in accordance with the terms of the instrument appointing that person to that office as determined by the National Assembly for Wales.

(2) Subject to paragraph (3), no person may be appointed as a member of the Panel for a period exceeding four years.

(3) A person who ceases to be a member of the Panel is eligible for re-appointment.

(4) A member appointed to fill a casual vacancy is to serve in that office until the date upon which the term of office of the person in whose place that member is elected would have expired.

### Meetings of the Panel

29.—(1) Subject to paragraph (2), the Panel must meet at least once a year.

(2) The first meeting of the Panel must be held within the period of six weeks beginning with the date of the instruments appointing persons as members of the Panel (or such later date as the National Assembly for Wales may agree).

(3) At the first meeting of the Panel, or where a casual vacancy occurs in the office of Vice-chairperson, the members of the Panel must elect one of their number (other than the Chairperson) to be Vice-chairperson of the Panel.

(4) Subject to paragraph (5), the Chairperson is to preside at meetings of the Panel.

(5) If the Chairperson is absent from a meeting of the Panel, the Vice-chairperson of the Panel is to preside.

(6) A Chairperson or Vice-chairperson is to hold such office until that person's term of office as member comes to an end.

(7) Subject to any provisions made by these Regulations, the members of the Panel may regulate their own procedure.

### Voting

30.—(1) A question to be decided by the Panel must be decided by a majority of the votes cast by the members present at the meeting and voting thereon.

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(11) See section 80 of the Local Government Act 1972 (c. 70) and sections 79 and 83(11) of the Local Government Act 2000 (c. 22).

(2) In the case of an equality of votes, the person presiding at the meeting of the Panel is to have a second or casting vote.

### **Quorum**

**31.** The quorum of the Panel is three and must include —

- (a) the Chairperson; or
- (b) the Vice-chairperson.

### **Administration**

**32.—**(1) The National Assembly for Wales must pay the expenses incurred by the Panel in carrying out its functions and may pay the members of the Panel such allowances or expenses as it may determine.

(2) The National Assembly for Wales must make available to the Panel appropriate administrative support.

**33.** The Panel may, in the performance of its functions under these Regulations, seek information or advice from any body or person.

### **Initial Report**

**34.—**(1) The Panel must produce a report (“the initial report”) which prescribes in relation to each authority —

(a) the responsibilities or duties in respect of which —

- (i) special responsibility allowance; and
- (ii) co-optees' allowance,

may be payable; and

(b) the maximum amounts payable by way of —

- (i) basic allowance;
- (ii) special responsibility allowance;
- (iii) care allowance;
- (iv) travelling allowance;
- (v) subsistence allowance; and
- (vi) co-optees' allowance.

(2) For the purposes of the initial report, the Panel may —

(a) prescribe different maximum amounts in relation to different authorities, and

(b) in relation to —

- (i) special responsibility allowance; and
- (ii) co-optees' allowance,

prescribe different maximum amounts for different responsibilities or duties.

(3) In producing the initial report, the Panel must consider any representation received from an authority in respect of the exercise of the Panel’s functions under this regulation.

(4) The Panel must produce the initial report before 31 July 2008 (or such later date as the National Assembly for Wales may agree).

## Annual Reports

**35.**—(1) Subject to paragraphs (4) and (5) the Panel must produce a report in every year (“an annual report”) which prescribes in relation to each authority —

- (a) the maximum annual adjustment that may be made by that authority in relation to the following year to —
  - (i) basic allowance;
  - (ii) special responsibility allowance;
  - (iii) care allowance;
  - (iv) travelling allowance;
  - (v) subsistence allowance; and
  - (vi) co-optees' allowance.
- (b) an index by reference to which one or more of the allowances referred to in paragraph (a) (i) to (vi) may be adjusted annually by that authority in relation to the following year.

(2) For the purposes of —

- (a) paragraph (1)(a), the Panel may prescribe different maximum annual adjustments for different authorities; and
- (b) paragraph (1)(b), the Panel may prescribe different indices for different authorities.

(3) In producing an annual report, the Panel must-

- (a) take account of any supplementary report produced by the Panel prior to that annual report which prescribes matters which for the time being apply to any authority; and
- (b) consider any representation received from an authority in respect of the exercise of the Panel’s functions under this regulation.

(4) Subject to paragraph (5), each annual report must be produced by the Panel by 31 December in the year prior to the year to which that report relates.

(5) The first annual report must be produced by the Panel during the financial year ending on 31 March 2010 and in any event before 31 December 2009 (or such later date as the National Assembly for Wales may agree).

## Supplementary Reports

**36.**—(1) Without prejudice to regulations 34 or 35, the Panel may at any time after the production of the initial report, and from time to time thereafter, produce a report (“a supplementary report”) which prescribes in relation to one or more authorities any of the matters that may be prescribed by the Panel in pursuance of regulations 34 and 35.

(2) In determining whether to produce a supplementary report and, if having determined to do so, in producing a supplementary report, the Panel must consider any representation received from an authority in respect of the exercise of the Panel’s functions under this regulation.

## Pensions

**37.**—(1) The Panel may make recommendations as to which members of an authority are to be entitled to pensions in accordance with the Local Government Pension Scheme Regulations 1997(12).

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(12) S.I. 1997/1612, as amended by S.I. 1997/1613, S.I. 1998/1238, S.I. 1999/1212, S.I. 1999/3438, S.I. 2000/3025, S.I. 2001/3649, S.I. 2001/770, S.I. 2001/1481, S.I. 2001/2401, S.I. 2002/206, S.I. 2002/819, S.I. 2003/2249. There are other amendments which are not relevant to Wales.

(2) In exercising its functions under paragraph (1), the Panel may make different recommendations in relation to each authority in respect of which it exercises those functions.

(3) Recommendations under paragraph (1) may form part of a report produced by the Panel in pursuance of regulations 34 or 36.

**38.**—(1) An authority may —

- (a) determine which members of the authority are entitled to pensions in accordance with the Local Government Pension Scheme Regulations 1997; and
- (b) provide in respect of those members referred to in sub-paragraph (a) that basic allowance and special responsibility allowance are treated as amounts in respect of which pensions are payable.

(2) An authority must in making any determination in accordance with this regulation only do so in respect of a member who has been recommended by the Panel as eligible for such entitlement under regulation 37.

### **Publicity for Panel Reports**

**39.**—(1) As soon as reasonably practicable after the Panel has produced a report under regulation 34, 35 or 36, the Panel must forward that report to the National Assembly for Wales.

(2) As soon as practicable after the National Assembly for Wales receives a report produced by the Panel under regulation 34 or 35, the National Assembly for Wales must send a copy of that report to every -

- (a) authority;
- (b) National Park authority; and
- (c) fire and rescue authority.

(3) As soon as practicable after the National Assembly for Wales receives a report produced by the Panel under regulation 36, the National Assembly for Wales must send a copy of the report to -

- (a) the authority to which that report relates;
- (b) any National Park authority within whose area that authority lies; and
- (c) the fire and rescue authority within whose area that authority lies.

(4) The National Assembly for Wales must —

- (a) publish the details of a report received under paragraph (1) in one or more newspapers circulating throughout Wales;
- (b) where the report received under paragraph (1) is the initial report or an annual report, include in the publication under sub-paragraph (a) a statement that copies of the report will be available at the principal offices of the authorities to members of the public at such times as may be specified by those authorities;
- (c) where the report received under paragraph (1) is a supplementary report, include in the publication under sub-paragraph (a) a statement —
  - (i) that copies of that report will be available to members of the public at the principal offices of the authority or authorities to which the report relates at such times as may be specified by those authorities; and
  - (ii) specifying the authority or authorities to which the report relates.

(5) Each authority must ensure that as soon as reasonably practicable after receiving a report of the Panel under paragraph (2) or (3) —

- (a) copies are available for inspection by members of the public at the principal office of the authority at such reasonable times as the authority may specify; and
- (b) a copy is supplied to any person who requests it and who pays the authority such reasonable fee as the authority may determine.

## PART 7

### Amendments to the 2002 Regulations

**40.**—(1) The 2002 Regulations are amended as follows.

(2) In regulation 2 —

(a) in the appropriate place, insert—

““co-opted member” (“*aelod cyfetholedig*”) means in relation to a National Park authority a person who is not a member of the National Park authority but who—

- (a) is a member of any committee or sub-committee of the National Park authority; or
- (b) is a member of, and represents the National Park authority on, any joint committee or joint sub-committee of the National Park authority

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;”;

(b) for the definition of “member” (“*aelod*”), substitute —

““member” (“*aelod*”) includes, unless otherwise expressly stated, a co-opted member and a member of a committee or sub-committee;” and

(c) in the appropriate place insert —

““the 2007 Regulations” (“*Rheoliadau 2007*”) means the Local Authorities (Allowances for Members) (Wales) Regulations 2007;”.

(3) In regulation 3, for “section 100(1)(b)”, substitute “section 100 (1)(b),(c) and (d)”.

(4) In regulation 6, insert at the start of paragraph (1), “Subject to regulation 12B,”.

(5) After regulation 7(4), insert —

“(5) A scheme must specify that where a member is suspended or partially suspended from that member’s responsibilities or duties as a member of the authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of basic allowance payable to that member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the authority.”.

(6) In regulation 8(1) —

- (a) in sub-paragraph (d) insert “chairs of licensing committees,” after “planning committees;” and
- (b) in sub-paragraph (e) insert “vice-chairs of licensing committees,” after “planning committees;”.

(7) For regulation 8(2)(b), substitute —

- “(b) A special responsibility allowance payable to a deputy leader of the cabinet of an authority operating executive arrangements which take the form of a leader and cabinet executive 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 that authority (excluding special responsibility allowance payable to the leader of that authority).



- (c) A special responsibility allowance payable to a vice chair of the board of an authority operating 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 board of that authority (excluding special responsibility allowance payable to the chair of the board of that authority).
- (d) Where, for the purposes of sub-paragraphs (b) and (c), the authority in question has—
- (i) more than one deputy leader (in the case of an authority operating executive arrangements); or
  - (ii) more than one vice chair (in the case of an authority operating alternative arrangements),
- that authority may apportion the sum referred to in those sub-paragraphs between those deputy leaders or vice chairs.”.
- (8) After regulation 8(3), insert —
- “(4) A scheme must specify that where a member is suspended or partially suspended from that member’s responsibilities or duties as a member of an authority in accordance with Part III of the Local Government Act 2000 or regulations made under that part, the part of special responsibility allowance payable to that member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the authority.”.
- (9) Omit regulation 9(4)(a).
- (10) After regulation 9(4), insert —
- “(5) A scheme must specify that where a member is suspended or partially suspended from that member’s responsibilities or duties as a member of the National Park authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of attendance allowance payable to that member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the National Park authority.”.
- (11) In regulation 10(2), omit sub-paragraph (a).
- (12) After regulation 10(2), insert —
- “(3) A scheme must specify that where a member is suspended or partially suspended from that member’s responsibilities or duties as a member of the county or county borough council in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of care allowance payable to that member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the county or county borough council.”.
- (13) For regulation 11, substitute —
- “**11.**—(1) 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.
- (2) A scheme must specify that where a member is suspended or partially suspended from that member’s responsibilities or duties as a member of the authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of financial loss allowance payable to that member in respect of the responsibilities or

duties from which that member is suspended or partially suspended must be withheld by the authority.”.

(14) In paragraph (1) of regulation 11 —

- (a) for “this Part shall”, substitute “this Part may”; and
- (b) for “who is not a councillor”, substitute “who is neither a councillor nor a co-opted member of that authority”.

(15) After regulation 12, insert —

“**12A.** A scheme may provide that where payment of any allowance has already been made in respect of any period during which the member concerned —

- (a) is suspended or partially suspended from that member’s responsibilities or duties as a member of the authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part;
- (b) ceases to be a member of the authority; or
- (c) is in any other way not entitled to receive the allowance in respect of that period,

the authority may require that such part of the allowance as relates to any such period be repaid to the authority.”.

(16) After regulation 12A, insert —

“**12B.**—(1) Before a National Park authority makes or amends a scheme, that National Park authority must have regard to the matters prescribed in any report produced by the Independent Remuneration Panel for Wales under Part 6 of the 2007 Regulations, in so far as those matters relate to allowances payable by that authority under a scheme, which for the time being apply in relation to any county council or county borough council by which any member of that National Park authority who is a councillor is nominated.

(2) Before a National Park authority specifies an index in pursuance of regulation 12(2), that National Park authority must have regard to the matters prescribed in any report produced by the Independent Remuneration Panel for Wales under Part 6 of the 2007 Regulations, in so far as those matters relate to an index by reference to which allowances may be adjusted, which for the time being apply to any county council or county borough council by which any member of the National Park authority who is a councillor is nominated.”.

(17) For regulation 15(2), substitute —

“(2) Before a National Park authority determines the rates of allowance under paragraph (1), that National Park authority must have regard to the matters prescribed in any report produced by the Independent Remuneration Panel for Wales under Part 6 of the 2007 Regulations, in so far as those matters relate to travel and subsistence allowances, which for the time being apply in relation to any county council or county borough council by which any member of the National Park authority who is a councillor is nominated.”.

(18) After regulation 15(3), insert —

“(4) An authority must specify a time limit from the date on which an entitlement to travel or subsistence allowances arises during which a claim for such allowance must be made by the person to whom the allowance is payable.

(5) Nothing in paragraph (4) prevents an authority from making a payment where the allowance is not claimed within the period so specified.

(6) Where a member is suspended or partially suspended from that member’s responsibilities or duties as a member in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, travel and subsistence allowances payable to

that member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the authority.”.

(19) After regulation 15, insert —

“**15A.** An authority may provide that where payment of an allowance under this Part has already been made in respect of any period during which the member concerned —

- (a) is suspended or partially suspended from that member’s responsibilities or duties as a member in accordance with Part III of the 2000 Act or regulations made under that Part;
- (b) ceases to be a member of the authority; or
- (c) is in any way not entitled to receive the allowance in respect of that period,

the authority may require that such part of the allowance as relates to any such period be repaid to the authority.”.

(20) After regulation 15A, insert —

“**15B.**—(1) Subject to paragraphs (2) to (7), a National Park authority may provide for the payment of an allowance for each year to a co-opted member in respect of attendance at conferences and meetings (co-optees' allowance).

(2) In determining the responsibilities or duties in respect of which co-optees' allowance may be payable, a National Park authority must have regard to the matters prescribed in any report produced by the Independent Remuneration Panel for Wales under Part 6 of the 2007 Regulations, in so far as those matters relate to the responsibilities or duties in respect of which co-optees' allowance may be payable, which for the time being apply to any county council or county borough council by which any member of the National Park authority who is a councillor is nominated.

(3) The amount of co-optees' allowance payable to a co-opted member by a National Park authority for a year must not exceed the amount which equals the average of all (if any) co-optees' allowance payable in that year under the 2007 Regulations by any county council or county borough council by which any member of that National Park authority who is a councillor is nominated.

(4) Subject to paragraph (5) a National Park authority may make provision for an annual adjustment of co-optees' allowance.

(5) An annual adjustment of co-optees' allowance by a National Park authority must not exceed the amount which equals the average of all (if any) annual adjustments made in that year under the 2007 Regulations by any county council or county borough council by which any member of that National Park authority who is a councillor is nominated.

(6) Where the term of office of a co-opted member comprises part only of a year, the entitlement of that member is to payment of such proportion of co-optees' allowance as the number of days on which that office is held during the year bears to the number of days in that year.

(7) Where a co-opted member is suspended or partially suspended from that co-opted members' responsibilities or duties as a co-opted member of a National Park authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, any co-optees' allowance payable to that co-opted member in respect of the responsibilities or duties from which that co-opted member is suspended or partially suspended shall be withheld by the National Park authority.

**15C.**—(1) Subject to regulation 15B(3) and (5), a National Park authority may amend the amount of co-optees' allowance payable for a year at any time in that year.

(2) Where a National Park authority makes such an amendment, whether in pursuance of regulation 15B(5) or otherwise, that National Park authority may provide for the entitlement to co-optees' allowance as amended to apply with effect from the beginning of the year in which the amendment is made.”.

(21) After Part IV (“other Allowances”) insert —

## “PART IVA

### Reimbursement of Expenses

**15D.**—(1) A National Park authority may reimburse to a member of that authority who is a councillor any monies expended by that member in respect of 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 National Park authority must not reimburse monies expended by a member —

- (a) in respect of any child over the age of fifteen years or dependant unless that National Park authority is satisfied that the child or dependant required supervision which has caused the member to incur expenses that were necessary in the carrying out of that member’s duties as a member;
- (b) if that authority is to reimburse monies expended by another member of that authority who is a councillor in respect of such expenses for the same child or dependant.

(3) Where a member of a National Park authority makes separate arrangements for the care of different children or dependants the National Park authority must not reimburse monies expended in respect of expenses of arranging such care unless that National Park authority is satisfied that the member must make such separate arrangements.

(4) Where a member of a National Park authority is suspended or partially suspended from that member’s responsibilities or duties as a member of the National Park authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, any reimbursement of care expenses payable to that member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the National Park authority.

(5) A National Park authority may provide that where reimbursement of care expenses under this Part has already been made in respect of any period during which the member concerned —

- (a) is suspended or partially suspended from that member’s responsibilities or duties as member in accordance with Part III of the 2000 Act or regulations made under that Part;
- (b) ceases to be a member of the National Park authority; or
- (c) is in anyway not entitled to receive the reimbursement of care expenses in respect of that period,

the National Park authority may require that such part of the reimbursement of care expenses as relates to any such period be repaid to the National Park authority.”.

(22) In regulation 17, for “under paragraph 1 or 2 of Schedule 24 to the Schools Standards and Framework Act 1998”, substitute “in accordance with regulations under section 94 of the Schools Standards and Framework Act 1998”.

(23) After regulation 19(2), insert —

“(3) As soon as practicable after the end of a year, an authority must make arrangements for the publication within its area of the total sum paid by it in that year to each member in respect of travel allowance and subsistence allowance.

(4) As soon as practicable after the end of a year, a National Park authority must make arrangements for the publication within its area of the total sum paid by it in that year to each member who is a councillor in respect of reimbursement of care expenses.”.

(24) After regulation 19(4), insert —

“(5) As soon as practicable after the end of a year a National Park authority must make arrangements for the publication within its area of the total sum paid by it in that year to each member in respect of co-optees' allowance.”.

## PART 8

### Amendments to the Fire and Rescue Authority Regulations

**41.**—(1) The Fire and Rescue Authority Regulations are amended as follows.

(2) In regulation 2 —

(a) for the definition of “2002 Regulations”, substitute —

““2007 Regulations” (“*Rheoliadau 2007*”) means the Local Authorities (Allowances for Members) (Wales) Regulations 2007”;

(b) in the appropriate place, insert —

““co-opted member” (“*aelod cyfetholedig*”) means in relation to a fire authority a person who is not a member of the fire authority but who —

(a) is a member of any committee or sub-committee of the fire authority; or

(b) is a member of, and represents the fire authority on, any joint committee or joint sub-committee of the fire authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;”;

(c) in the definition of “member”, for “and paragraph (2) of regulation 15” substitute “, paragraph (2) of regulation 15 and regulation 15A”.

(3) In regulation 3, for “section 100(1)(b) and (d)” substitute “section 100(1)(b), (c) and (d)”.

(4) In regulation 6(3)(a) and (b), for “2002 Regulations” substitute “2007 Regulations”.

(5) In the Welsh text of regulation 8(4), in sub-paragraphs (a) and (b) omit “ar gyfer y flwyddyn sy'n gorffen ar 31 Mawrth 2006”.

(6) In the Welsh text of regulations 8(6), 10(a) and 16(a), for “gyfrifoldebau a'i ddyletswyddau”, substitute “gyfrifoldebau neu ei ddyletswyddau”.

(7) In regulation 13(2), omit sub-paragraph (a).

(8) In regulation 14(2), for “2002 Regulations” substitute “2007 Regulations”.

(9) After regulation 15, insert —

**15A.**—(1) Subject to paragraphs (2) to (7), a fire authority may provide for the payment of an allowance for each year to a co-opted member in respect of attendance at conferences and meetings (co-optees' allowance).

(2) In determining the responsibilities or duties in respect of which co-optees' allowance may be payable, a fire authority must have regard to the matters prescribed in any report

produced by the Independent Remuneration Panel for Wales under Part 6 of the 2007 Regulations, in so far as those matters relate to the responsibilities or duties in respect of which co-optees' allowance may be payable, which for the time being apply to any of that fire authority's constituent authorities.

(3) The amount of co-optees' allowance payable to a co-opted member by a fire authority for a year must not exceed the amount which equals the average of all (if any) co-optees' allowances payable by that fire authority's constituent authorities in that year under the 2007 Regulations.

(4) Subject to paragraph (5) a fire authority may make provision for an annual adjustment of co-optees' allowance.

(5) An annual adjustment of co-optees' allowance by a fire authority must not exceed the amount which equals the average of all (if any) annual adjustments made by that fire authority's constituent authorities to co-optees' allowance payable by those authorities in that year under the 2007 Regulations.

(6) Where the term of office of a co-opted member comprises part only of a year, the entitlement of that co-opted member is to payment of such proportion of co-optees' allowance payable to that co-opted member as the number of days on which that office is held during the year bears to the number of days in that year.

(7) Where a co-opted member is suspended or partially suspended from that co-opted members' responsibilities or duties as a co-opted member of a fire authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, any co-optees' allowance payable to that co-opted member in respect of the period for which that co-opted member is suspended or partially suspended must be withheld by the fire authority.

**15B.**—(1) Subject to regulation 15A(3) and (5), a fire authority may amend the amount of co-optees' allowance payable for a year at any time in that year.

(2) Where a fire authority makes such an amendment, whether in pursuance of regulation 15A(5) or otherwise, that fire authority may provide for the entitlement to co-optees' allowance as amended to apply with effect from the beginning of the year within which the amendment is made.”.

(10) In regulation 16 —

(a) for “member concerned”, substitute “member or co-opted member concerned”; and

(b) in paragraph (a) —

(i) for “member’s responsibilities”, substitute “member’s or co-opted member’s responsibilities”;

(ii) for “member, chairperson”, substitute “member, co-opted member, chairperson”; and

(iii) in paragraph (b), after “member” insert “or co-opted member”.

(11) After regulation 17(2), insert —

“(3) A fire authority shall specify a time limit from the date on which an entitlement to travel allowance or subsistence allowance arises during which a claim for such allowance must be made by the person to whom the allowance is payable.

(4) Nothing in paragraph (3) shall prevent an authority from making a payment where the allowance is not claimed within the period so specified.”.

(12) In the Welsh text of regulation 19(1), after “bob awdurdod”, insert “tân”.

(13) For regulation 19(3), substitute —

“(3) As soon as practicable after the end of each year, every fire authority shall make arrangements for the publication within the fire authority’s area of the total sum paid by it in that year to each member in respect of —

- (a) care allowance;
- (b) travel allowance; and
- (c) subsistence allowance.”.

(14) After regulation 19(3), insert —

“(4) As soon as practicable after the end of each year, every fire authority shall make arrangements for the publication within the fire authority’s area of the total sum paid by it in that year to each co-opted member in respect of co-optees' allowance.”.

## PART 9

### Revocations and savings

#### Revocations, savings and modifications

**42.**—(1) The 2002 Regulations are to continue to have effect without prejudice to section 16 of the Interpretation Act 1978(**13**) in relation to claims made for allowances or other payments in respect of duties performed before the date on which these Regulations come into force in accordance with regulation 1(1)(b).

(2) Subject to paragraph (1) the 2002 Regulations are hereby revoked save in so far as they apply to -

- (a) National Park authorities; and
- (b) the Local Authorities (Members' Allowances) Regulations 1991(**14**).

(3) Sections 174, 175 and 177 of the 1972 Act do not apply to authorities.

(4) In its application to authorities sub-section (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 these Regulations and as if the reference to an approved duty was a reference to that term as defined in these Regulations.

**43.** The Local Authorities (Allowances for Members of County and County Borough Councils) (Pensions) (Wales) Regulations 2003(**15**) are hereby revoked.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**16**).

28 March 2007

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

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(13) 1978 c. 30.

(14) S.I. 1991/351 was revoked by S.I. 2002/1895 save in so far as it relates to claims made for allowances or other payments in respect of duties performed before 1 April 2002.

(15) S.I. 2003/2963 (W.280).

(16) 1998 c. 38.

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

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## 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 Regulations to make a scheme providing for the payment of (amongst others) a basic allowance to councillors and a special responsibility allowance to 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 Regulations with respect to travelling and subsistence allowances payable to members of such relevant authorities as may be prescribed and with respect to allowances payable to members of such relevant authorities as may be prescribed for attending conferences and meetings. Section 100 of the 2000 Act also provides for the National Assembly for Wales to make Regulations with respect to the reimbursement of expenses incurred by members of such authorities as may be prescribed by Regulations.

These Regulations make provision about the payment of allowances to members of county and county borough councils and fire and rescue authorities in Wales. They also make provision about the payment of allowances to members of National Park authorities and the reimbursement of certain expenses incurred by such members.

Part 2 of these Regulations requires county and county borough councils in Wales (“authorities”) to make schemes for the payment of allowances to their members. In making schemes, authorities are required to make provision for the payment of basic allowance (regulation 7). A scheme may also provide for the payment of special responsibility allowance (regulation 8) and care allowance (regulation 9).

The amount of basic allowance, special responsibility allowance and care allowance payable to a member of an authority must not, subject to the provision in regulation 11 concerning the period prior to 31 March 2009 and provisions concerning uprating in regulation 12, exceed the maximum amounts prescribed for those allowances (and in the case of special responsibility allowance extend beyond the responsibilities or duties prescribed) for that authority by the Independent Remuneration Panel for Wales (“the Panel”) under Part 6 of these Regulations (and regulations 7(2), 8(3) and 9(3) refer respectively).

Regulation 8(2) provides that special responsibility allowance is not payable to more than half the members of an authority.

Part 2 of these Regulations also provides that, in relation to basic allowance, special responsibility allowance and care allowance, a scheme must specify that where a member is suspended or partially suspended from that member’s responsibilities or duties as member, the part of each allowance payable to that member in respect of the responsibilities or duties from which the member is suspended must be withheld by the authority (and regulations 7(6), 8(6) and 9(4) refer).

Part 3 of these Regulations makes further provision for schemes for the payment of allowances. Regulation 12(1) to (3) provides that a scheme may make provision for an annual adjustment of allowances. Such an adjustment by an authority must not exceed the amount prescribed for that authority by the Panel (or must be made by reference to any index prescribed by the Panel) in an annual report or a supplementary report produced by the Panel.



Under regulation 12(4) a scheme may provide that where a payment of allowances has been made to a member for a period during which that member is (amongst others) suspended, the authority may require that such part of the allowance that relates to the period of suspension be repaid to the authority.

Regulation 13 provides that a scheme must contain a provision so as to allow a member to forgo any part of that member's entitlement to an allowance under the scheme.

Part 4 of these Regulations provides for the payment by authorities of other allowances. Under regulation 15, members are entitled to receive travelling and subsistence allowances. Under regulation 16, authorities may provide for the payment of a co-optees' allowance to co-opted members who have such responsibilities or duties in respect of attendance at conferences and meetings as are prescribed by the Panel.

Regulation 15(3) and regulation 16(6) provide, respectively, that where a member or co-opted member is suspended or partially suspended from that member's or co-opted member's responsibilities or duties as a member or co-opted member, the part of each allowance payable to that member or co-opted member in respect of the responsibilities or duties from which the member or co-opted member is suspended must be withheld by the authority.

The rates of travelling and subsistence allowances payable by an authority must not, subject to the provisions concerning uprating in regulation 20, exceed the maximum amounts prescribed for those allowances for that authority by the Panel under Part 6 of these Regulations (and regulation 15(2) refers). The amount of co-optees' allowance payable by an authority must not, subject to the provision in regulation 19 concerning the period prior to 31 March 2009 and provisions concerning uprating in regulation 20, exceed the maximum amount prescribed for that allowance (or extend beyond the responsibilities or duties prescribed) for that authority by the Panel under Part 6 of these regulations (and regulation 16(2) refers).

Under regulation 17 a member or co-opted member of an authority may elect to forgo any part of that member's entitlement to allowances payable under Part 4 of these Regulations.

Regulation 18 requires authorities to specify a time limit for the making of claims for travelling and subsistence allowances by the person to whom they are payable. Travelling 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 19 makes provision in respect of the maximum amount of co-optees' allowance payable in the period prior to 31 March 2009.

Regulation 20 provides that an authority may make provision for an annual adjustment of allowances payable under Part 4 of these Regulations. Such an adjustment by an authority must not exceed the amount prescribed for that authority by the Panel (or must be made by reference to any index prescribed by the Panel) in an annual report or a supplementary report produced by the Panel.

Under regulation 21 an authority may provide that where a payment of allowances has been made under Part 4 of these Regulations to a member for a period during which that member is (amongst others) suspended, the authority may require that such part of the allowance that relates to the period of suspension be repaid to the authority.

Part 5 of these Regulations makes provision in respect of administrative arrangements. Regulation 22 provides for all claims for travelling and subsistence allowances 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. Regulation 24 makes provision for records of allowances and the availability of such records to a local government elector.

Regulation 25(1) and (2) makes provision for the publication of a scheme and the publication of sums paid under that scheme. Regulation 25(3) makes provision for the publication of sums paid in respect of allowances payable under Part 4 of these Regulations.

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Part 6 of these Regulations makes provision for the Panel. Regulation 26 requires the National Assembly for Wales to appoint the Panel. Regulation 27 provides that the Panel must consist of a Chairperson and a Vice chairperson together with three other members. One member of the Panel is to be appointed as Chairperson by the National Assembly for Wales. Regulation 28 provides for the tenure of Panel members and regulation 29 makes provision in relation to meetings of the Panel.

Regulations 30 and 31 provide for voting at meetings of the Panel and the quorum of the Panel respectively. Under regulation 32 it is for the National Assembly for Wales to pay the expenses incurred by the Panel in carrying out its functions and regulation 33 entitles the Panel to seek information or advice.

Regulation 34 requires the Panel to produce an initial report before 31 July 2008 (or such later date as the National Assembly for Wales may agree). The matters to be prescribed in the initial report are described at regulation 34(1) and (2).

Regulation 35 requires the Panel to produce during the financial year 1 April 2009 to 31 March 2010 (and in any event by 31 December 2009, or such later date as the National Assembly for Wales may agree) and each financial year thereafter an annual report. The matters to be prescribed in an annual report are described at regulation 35(1) and (2). Regulation 35(3)(a) obliges the Panel, in producing an annual report, to take account of any supplementary report produced prior to that annual report which prescribes matters which for the time being apply to any authority.

Regulation 36 entitles the Panel to produce supplementary reports which may prescribe from time to time and in relation to one or more authorities any of the matters that the Panel may prescribe in the initial report or in an annual report.

In producing the initial report, an annual report or a supplementary report, the Panel is obliged to consider any representations received from an authority in respect of the Panel's functions in producing such a report and regulations 34(3), 35(3) and 36(2) refer respectively.

The Panel may also make recommendations as to which members of an authority are to be entitled to pensions in accordance with the Local Government Pensions Scheme Regulations 1997 (and regulation 37 refers). Such Panel recommendations may form part of the Panel's initial report or a supplementary report.

Regulation 39 makes provision for publicising the reports of the Panel.

Part 7 of these Regulations makes provision for the amendment of the Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002 ("the 2002 Regulations").

Regulation 40(6) amends regulation 8(1) of the 2002 Regulations (which concerns special responsibility allowance) such that categories of responsibility described in regulation 8(1) include chairs of licensing committees and vice chairs of licensing committees (at sub-paragraphs (d) and (e) of regulation 8(1) respectively).

Regulation 40(7) substitutes a new regulation 8(2)(b), (c) and (d) for regulation 8(2)(b) of the 2002 Regulations. Where an authority operating executive arrangements or alternative arrangements has more than one deputy cabinet leader or more than one vice chair of a board, the additional sum of ten per cent payable by way of special responsibility allowance for such responsibility may be apportioned amongst those deputy leaders or vice chairs.

Part 7 of these Regulations also amends the 2002 Regulations such that in respect of basic allowance, special responsibility allowance, attendance allowance, care allowance and financial loss allowance, a scheme made by an authority (or, as appropriate, a National Park authority) must specify that where a member is suspended or partially suspended from that member's responsibilities or duties as member, the part of each allowance payable to that member in respect of the responsibilities or duties from which the member is suspended must be withheld by the authority or National Park authority (and regulations 40(5), 40(8), 40(10), 40(12) and 40(13) refer respectively).

Regulation 40(15) inserts a new regulation 12A into the 2002 Regulations under which a scheme may provide that where a payment of allowances has been made to a member for a period during which that member is (amongst others) suspended, the authority or National Park authority, as appropriate, may require that such part of the allowance that relates to the period of suspension be repaid to the authority.

Regulation 40(16) inserts a new regulation 12B into the 2002 Regulations which provides for the extent to which a National Park authority must have regard to matters prescribed in a report of the Panel before making or amending a scheme or specifying an index by reference to which allowances may be adjusted.

Regulation 40(17) substitutes a new regulation 15(2) into the 2002 Regulations which provides for the extent to which a National Park authority must have regard to matters prescribed in a report of the Panel before determining rates of travel and subsistence allowances.

Regulation 40(18) inserts (amongst others) new regulation 15(4) and (5) into the 2002 Regulations. New regulation 15(4) and (5) requires authorities to specify a time limit within which a claim for travel or subsistence allowances must be made.

Regulation 40(19) inserts a new regulation 15A into the 2002 Regulations which provides for the recovery of allowances payable by an authority under Part IV of the 2002 Regulations.

Regulation 40(20) inserts a new regulation 15B into the 2002 Regulations which entitles a National Park authority to pay a co-optees' allowance to their co-opted members. Provision is also made for calculating the maximum amount of co-optees' allowance payable by a National Park authority and an annual adjustment of co-optees' allowance.

The 2002 Regulations are also amended such that (amongst others) in respect of travel and subsistence allowance and co-optees' allowance, where a member or co-opted member of a National Park authority is suspended or partially suspended from that member's or co-opted member's responsibilities or duties as member or co-opted member, the part of each allowance payable to that member or co-opted member in respect of the period of suspension must be withheld by the authority (and regulations 40(18) and (20) refer respectively).

Regulation 40(21) inserts a new Part IVA into the 2002 Regulations which makes provision for a National Park authority to reimburse to a member any monies expended by that member in respect of expenses incurred in arranging for the care of children or dependants.

Regulation 40(23) amends regulation 19 of the 2002 Regulations and provides for the publication by authorities of the total sum paid in a year to each member in respect of travel and subsistence allowances and for the publication by National Park authorities of the total sum paid in a year to each member in respect of reimbursement of care expenses.

Part 8 of these Regulations makes amendments to the Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004 ("the 2004 Regulations"). Regulation 41(5), (6) and (12) corrects typographical errors in the Welsh text of regulations 8, 10, 16 and 19 of the 2004 Regulations. Regulation 41(9) inserts a new regulation 15A into the 2004 Regulations which makes provision for the payment by a fire and rescue authority of a co-optees' allowance to its co-opted members. That new regulation 15A provides (amongst others) that where a co-opted member of a fire and rescue authority is suspended or partially suspended from that co-opted member's responsibilities or duties as co-opted member, the part of co-optees' allowance payable to that co-opted member in respect of the period of suspension must be withheld by the fire and rescue authority.

Regulation 41(11) amends regulation 17 of the 2004 Regulations such that a fire authority must specify a time limit within which a claim for travel and subsistence allowances must be made. Regulation 41(13) substitutes a new regulation 19(3) into the 2004 Regulations such that a fire authority must make arrangements for the publication of sums paid in respect of care allowance and travel and subsistence allowances. Regulation 41(14) inserts a new 19(4) into the 2004 Regulations

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such that after the end of each year a fire authority must make arrangements for the publication of the total sum paid to each co-opted member in respect of co-optees' allowance.

Part 9 of these Regulations makes provision for revocations, savings and modifications.