

National Assembly for Wales

STATUTORY INSTRUMENTS

2004 No. (W.)

LOCAL GOVERNMENT, WALES

DRAFT

**The Local Authorities (Allowances for Members of Fire Authorities)
(Wales) Regulations 2004**

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

- a basic allowance; and
- a special responsibility allowance.

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

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

These Regulations require fire authorities in Wales to make a scheme for the payment of a basic allowance ("fire authority allowance") and special responsibility allowances ("fire authority chairperson's allowance" and "fire authority vice-chairperson's allowance") following the coming into force of these Regulations and in subsequent years. These Regulations also provide for the payment of care allowance and travel and subsistence allowances.

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

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

Regulation 7 requires a scheme to contain provisions relating to a "fire authority allowance" for all fire authority members. Only one "fire authority allowance" per member shall be payable under a scheme. Regulation 8 gives fire authorities discretion to make provision for a fire authority chairperson's allowance and a fire vice-chairperson's allowance. Such allowances are not payable, by virtue of Regulation 8(2), where a fire authority chairperson or fire authority vice-chairperson is also a member of an executive or a board where a constituent authority is operating executive or alternative arrangements as appropriate. Regulation 8 also makes provision as to entitlement to allowances a fire authority chairperson or vice-chairperson according to the date of that person's election to office.

Regulation 9 requires that a scheme under Part II shall specify the amount of the "fire authority allowance" or a means to ascertain that amount and also the means to ascertain any "fire authority chairperson's allowance" or "fire authority vice-chairperson's allowance". Regulation 9 also gives authorities discretion as to whether to include in a scheme made under Part II provision for the annual adjustment of allowances by reference to such index as the fire authority may specify.

A scheme under Part II shall contain a provision to allow a member to forgo any part of their entitlement under the scheme by virtue of Regulation 10 and may, under Regulation 11, set out the times for payments of allowances to be made (which may be different for different allowances).

Regulation 12 provides discretion for a fire authority to pay a care allowance to a fire authority member who incurs expenses arranging for the care of children or dependants whilst that member undertakes duties as a fire authority member.

Regulation 13 provides for payment of travel or subsistence to members, at rates to be determined each year. Those rates are to be linked to rates payable to Members of the National Assembly for Wales in so far as they shall not exceed rates received by Assembly Members. Travel and subsistence claims (except claims relating to travel by private motor vehicle) are to be made on an "actual" basis and must be accompanied by relevant receipts for expenditure incurred, subject to any requirement or limitation determined by an authority.

Regulation 14 provides that claims by fire authority members in accordance with these Regulations shall be paid by a fire authority of which the claimant is a member. Regulation 14 also provides for all claims made for care allowance, travel allowance or subsistence 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.

Regulation 15 requires every authority to keep a record of any payments made in accordance with these Regulations or any scheme made under them, giving details of the recipient and the nature of the payment. That information should be available for inspection (free of charge) by any local government elector in the area of any of the constituent authorities of a fire authority. Copies of the information may be obtained for payment of a reasonable fee to an authority.

In accordance with Regulation 16 any scheme made under these Regulations must be publicised in the authority's area as soon as practical after it is made. As soon as practicable after the end of a year to which a scheme relates, each authority shall publish details of the total sum paid under the scheme to each member in respect of fire authority allowance, fire authority chairperson's allowance and fire authority vice-chairperson's allowance.

STATUTORY INSTRUMENTS

2004 No. (W.)

LOCAL GOVERNMENT, WALES

DRAFT

The Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004

Made [] 2004

Coming into force [] 2004

The National Assembly for Wales makes the following Regulations in exercise of the powers given to the Secretary of State by section 18(1), (3) and (4) of the Local Government and Housing Act 1989() which are now vested in the National Assembly for Wales so far as exercisable in Wales and the powers given to it by sections 100(1) and (5) of the Local Government Act 2000 having carried out such consultation as is required by section 100(5):

PART I

General

Name, commencement and application

1. — The name of these Regulations is the Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004 and they shall come into force on [] 2004.
 1. These regulations apply to fire authorities in Wales only.

Interpretation

2. In these Regulations —

"1972 Act" ("*Deddf 1972*") means the Local Government Act 1972;

"1989 Act" ("*Deddf 1989*") means the Local Government and Housing Act 1989();

"2000 Act" ("*Deddf 2000*") means the Local Government Act 2000;

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

"approved duty" ("*dyletswydd a gymeradwywyd*") means —

- a. attendance at a meeting of the fire authority or of any committee of the fire authority or of any body to which the fire authority makes appointments or nominations or of any committee of such a body;
- b. attendance at a meeting of any association of which the fire authority is a member;
- c. attendance at any other meeting the holding of which is authorised by the fire authority or by a committee of the fire authority or by a joint committee of the fire authority and one or more other fire authorities or any other authorities;
- d. a duty undertaken in pursuance of a standing order which requires a fire authority member or members to be present when tender documents are opened;
- e. a duty undertaken in connection with the discharge of any function of the fire authority which empowers or requires the fire authority to inspect or authorise the inspection of premises;
- f. attendance at any training or developmental event approved by the fire authority; and
- g. any other duty approved by the fire 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 fire authority or of any of its committees.

"board" ("*bwrdd*") means the committee of a local authority established under regulation 4(1)(a)

of the Local Authorities (Alternative Arrangements) (Wales) Regulations 2001();

"chairperson" means a fire authority member elected by a fire authority as the chairperson of that fire authority;

"committee" ("*pwylgor*") includes a sub-committee;

"constituent authority" means a county council or county borough council falling within the area of a fire authority;

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

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

"fire authority" means a fire authority constituted by a combination scheme under the Fire Services Act 1947();

"fire authority allowance" means a basic allowance payable under section 18(1)(a) of the 1989 Act;

"fire authority chairperson's allowance" means a special responsibility allowance payable under section 18(1)(c) of the 1989 Act;

"fire authority member" means a member of a fire authority appointed by a constituent authority;

"fire authority vice chairperson's allowance" means a special responsibility allowance payable under section 18(1)(c) of the 1989 Act;

"initial period" means the period commencing on the date on which these Regulations came into force and ending on 31st March 2004;

"proper officer" shall be construed in accordance with section 270(3) of the 1972 Act;

"vice-chairperson" means a fire authority member elected by a fire authority as the chairperson of that authority; and

"year" ("*blwyddyn*") means, other than in respect of the initial period, the twelve months ending with 31st March.

Prescribed relevant authorities

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

PART II

Schemes for Fire Authority Members' Allowances

Interpretation

4. For the purpose of these Regulations the term of office of a member of a fire authority shall begin on the date on which that member is appointed as such by a constituent authority and the term of office of a chairperson or vice-chairperson of a fire authority shall begin on the date on which that member is elected as such by the fire authority.

Allowance schemes

5. — Each fire authority shall make a scheme in accordance with these Regulations for the payment of allowances in respect of the initial period and subsequent years.
 1. When a scheme is revoked in accordance with regulation 6, a fire authority shall before the revocation takes effect make a further scheme for the period beginning with the date on which the revocation takes effect.

Amendment of schemes

6. A scheme made under this Part may be amended or revoked at any time provided that where an amendment is made which varies an allowance payable, the variation in allowance shall be effective from the date of the amendment.

Fire authority allowances

7. — A scheme made under this Part shall provide for the payment for the initial period and each year to which the scheme relates of a fire authority allowance to each member of the fire authority and the amount of such allowance shall be the same for each fire authority member.

1. The scheme shall provide that, where the term of office of a fire authority member begins or ends otherwise than before or on the beginning, or on or after the end of the initial period, the entitlement of that member shall be to payment of such proportion of the fire authority allowance as the number of days during which the member's term of office as a member subsists during the initial period bears to the number of days in that period.
2. The scheme shall provide that, where the term of office of a fire authority member begins or ends otherwise than at the beginning or end of a year, the entitlement of that member shall be to payment of such proportion of the fire authority allowance as the number of days during which the member's term of office as member subsists during that year bears to the number of days in that year.
3. A scheme made under this Part shall provide that no more than one fire authority allowance shall be payable to a fire authority member.

Fire authority chairperson's allowances and vice-chairperson's allowances

8. — Subject to paragraph (2), a scheme made under this Part shall provide for the payment for the initial period and each year to which the scheme relates of a fire authority chairperson's allowance and a fire authority vice-chairperson's allowance.
 1. The scheme shall not provide for the allowances referred to in paragraph (1) where a fire authority chairperson or fire authority vice-chairperson is also a member of the executive of a constituent authority operating executive arrangements or a member of the board of a constituent authority operating alternative arrangements.
 2. The scheme shall provide that where the term of office of a fire authority member as chairperson or vice-chairperson begins or ends otherwise than before or on the beginning, or on or after the end of the initial period, the entitlement of that member shall be to payment of such proportion of either a fire authority chairperson's or fire authority vice-chairperson's allowance (as is appropriate) as the number of days during which the member's term of office as chairperson or vice-chairperson subsists during the initial period bears to the number of days in that period.
 3. The scheme shall provide that where the term of office of a fire authority member as chairperson or vice-chairperson of a fire authority begins or ends otherwise than at the beginning or end of a year, the entitlement of that member shall be to payment of such proportion of either the fire authority chairperson's or fire authority vice-chairperson's allowance (as is appropriate) as the number of days during which the member's term of office as chairperson or vice-chairperson subsists during that year bears to the number of days in that year.

Amount of allowances etc

9. — A scheme under Part II shall specify in respect of the initial period and any year to which it relates —
 - a. the amount or a means to ascertain the amount of the fire authority allowance; and
 - b. the amount or a means to ascertain the amount of the fire authority chairperson's allowance and the fire authority vice-chairperson's allowance.
1. A scheme under Part II may make provision for an annual adjustment of allowances by reference to such index as may be specified by the fire authority.

Elections

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

Claims and payments

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

PART IV

Other Allowances

Care allowances

12. — Subject to paragraph (2), a fire authority may provide for the payment to a fire authority member 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 fire authority member.
 1. In making provision under paragraph (1) a fire authority shall not provide for the payment of —

- a. a care allowance to a member of the fire authority who is entitled to receive a fire authority chairperson's allowance or a fire authority vice-chairperson's allowance in respect of such allowances of any amount which exceeds the amount from time to time specified in writing by the National Assembly for Wales;
 - b. a care allowance in respect of any child over the age of fifteen years or dependent unless the fire authority member satisfies the fire 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 fire authority member;
 - c. a care allowance to more than one member of the fire authority in relation to the care of the same child or dependant; or
 - d. more than one care allowance to any member of the fire 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.
2. A fire authority may make provision for an annual adjustment of care allowances by reference to such index as may be specified by the fire authority.

Travel and subsistence allowances

13. — Subject to paragraph (2), a fire authority member shall be entitled to receive payments by way of travel allowance or subsistence allowance at rates determined for the initial period and each year by the fire authority where expenditure on travel or subsistence is necessarily incurred by that fire authority member in the performance of an approved duty as a member of the fire authority.
 1. The rates of allowance determined for the initial period or 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 the initial period or that year to members of the National Assembly for Wales.
 2. Any claim for payment of travel and subsistence allowances in accordance with these Regulations (excluding claims for travel by means of a private motor vehicle) shall be accompanied by appropriate receipts proving actual expenses, subject to any requirement or limitation that an authority may determine.

PART V

Administrative Arrangements

Payment and avoidance of duplication

14. — Any payment of allowances to a fire authority member under these Regulations shall be paid by the fire authority of which the fire authority member is a member.

1. A claim for a payment by way of care allowance, travel allowance or subsistence allowance shall include, or be accompanied by, a statement signed by the fire authority member that the member has not made and will not make any other claim in respect of the matter to which the claim relates from a fire authority or any other person.

Records of allowances

15. — Every fire authority shall keep a record of the payments made by it in accordance with these Regulations or any scheme made pursuant to them.
 1. 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 a constituent authority;
 2. 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 fire authority.

Publicity

16. — Every fire authority shall, as soon as practicable after the making or amendment of any scheme made pursuant to these Regulations, make arrangements for its publication within the fire authority's area.
 1. As soon as practicable after the end of the initial period and each year to which a scheme relates, every fire authority shall make arrangements for the publication within the fire authority's area of the total sum paid by it in the initial period and that year under the scheme to each fire authority member in respect of each of the following, namely, fire authority allowance, fire authority chairperson's allowance, fire authority vice-chairperson's allowance.

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

Date

The Presiding Officer of the National Assembly