

# **Y Pwyllgor Llywodraeth Leol a Gwasanaethau Cyhoeddus**

## **LGPS(2)-03-07(p4)**

**Dyddiad: Dydd Mercher 7 Mawrth 2007**

**Lleoliad: Ystafell Pwyllgor 2, Senedd, National Assembly for Wales**

**Teitl: Rheoliadau Awdurdodau Lleol (Lwfansau Aelodau) (Cymru) 2007**

### **Diben**

1. Mae'r papur hwn yn rhoi cyfle i'r Pwyllgor graffu ar fersiwn ddrafft o Reoliadau Awdurdodau Lleol (Lwfansau Aelodau) (Cymru) 2007 cyn iddynt gael eu hystyried o dan Reol Sefydlog 24.

### **Crynodeb**

2. Mae'r Rheoliadau hyn yn cynnig trefn newydd ar gyfer lwfansau cynghorwyr trwy greu panel annibynnol Cymru gyfan ar gydnabyddiaeth ariannol a fydd yn pennu ystod ac uchafsymiau'r lwfansau sy'n daladwy i aelodau cynghorau sir a chynghorau bwrdeistref sirol. Bydd y Rheoliadau hefyd yn berthnasol, i raddau llai, i aelodau Awdurdodau Parciau Cenedlaethol (APCau) ac Awdurdodau Tân ac Achub.

### **Cefndir**

3. Mae Rhan V o Ddeddf Llywodraeth Leol 2000 ("Deddf 2000") yn cynnwys darpariaethau ar lwfansau a phensiynau aelodau awdurdodau lleol. Roedd Adran 99 o'r Ddeddf honno'n diwygio adran 18 o Ddeddf Llywodraeth Leol a Thai 1989 ("Deddf 1989"), sy'n darparu ar gyfer cynlluniau mewn perthynas â lwfansau sylfaenol, mynychu a chyfrifoldeb arbennig sy'n daladwy i aelodau awdurdodau lleol.

4. Gwnaed *Rheoliadau Awdurdodau Lleol (Lwfansau i Aelodau Cynghorau Sir a Chynghorau Bwrdeistref Sirol ac Awdurdodau Parciau Cenedlaethol) (Cymru) 2002* ("Rheoliadau 2002") gan y Cynulliad o dan adran 18 o Ddeddf 1989 ac adran 100 o Ddeddf 2000. Maen nhw'n ei gwneud yn ofynnol i bob cyngor sir a chynghor bwrdeistref sirol ac Awdurdod Parc Cenedlaethol yng Nghymru lunio cynllun lwfansau ar gyfer eu haelodau a rhoi cyhoeddusrwydd iddo. Mae gan bob aelod hawl i lwfans sylfaenol a lwfans teithio a chynhaliaeth ac mae gan rai aelodau, mewn categorïau a restrir yn Rheoliadau 2002, hawl i lwfansau cyfrifoldeb arbennig. Dim ond lwfansau mynychu sy'n daladwy i aelodau Awdurdodau Parciau Cenedlaethol, a dim ond aelodau cynghorau sir a chynghorau bwrdeistref sirol sydd â hawl i lwfansau gofal (neu bobl ddibynnol) mewn perthynas â phlant ac oedolion ddibynnol. Gellir talu lwfansau colled ariannol i aelodau nad ydynt yn gynghorwyr (h.y. aelodau anetholedig o bwyllograu cynghorau neu Awdurdodau Parciau Cenedlaethol). Mae Rheoliadau 2002 hefyd yn darparu ar gyfer cynyddu lwfansau'n flynyddol.

5. Caiff Rheoliadau 2002 eu cefnogi gan Ganllawiau Statudol. Mae'r Canllawiau'n pennu'r uchafswm sy'n daladwy ar gyfer y lwfans sylfaenol bob blwyddyn, yn unol â mynegai penodol. Mae'r Canllawiau hefyd yn pennu uchafswm y cyfraddau sy'n daladwy ar gyfer y lwfans cyfrifoldeb arbennig, sy'n amrywio yn unol â'r swydd dan sylw a maint poblogaeth y cyngor, ac maent yn nodi y gellir cynyddu lwfansau o'r fath yn unol â chynnydd yng nghyflog Aelodau'r Cynulliad. Mae'r Canllawiau hefyd yn nodi na all unrhyw awdurdod dalu mwy nag un lwfans cyfrifoldeb arbennig i aelod o'r awdurdod hwnnw. Maent hefyd yn nodi uchafswm y lwfans gofal, ynghyd â chynnydd blyneddol, sydd hefyd wedi'i gysylltu â chynnydd yng nghyflog Aelodau'r Cynulliad.

6. Mae *Rheoliadau Awdurdodau Lleol (Lwfansau i Aelodau Cyngorau Sir a Chyngorau Bwrdeistref Sirol) (Pensiynau) (Cymru) 2003* ("y Rheoliadau Pensiwn"), yn galluogi awdurdodau lleol i bennu pa rai o'u haelodau etholedig ddylai gael yr hawl i ymuno â'r Cynllun Pensiwn Llywodraeth Leol, cyn belled â bod Panel Annibynnol Cymru ar Gydabyddiaeth Ariannol wedi argymhell yr aelodau hynny i wneud hynny. Yn sgil y Rheoliadau, bu modd sefydlu'r Panel am gyfnod dros dro o chwe mis.

7. Mae Rheoliadau Awdurdodau Lleol (Lwfansau Aelodau) (Cymru) 2007 yn dirymu Rheoliadau 2002, i'r graddau y maent yn berthnasol i aelodau cyngorau sir a chynghorau bwrdeistref sirol, ac yn eu diwygio, i'r graddau y maent yn berthnasol i aelodau APCau. Maen nhw hefyd yn dirymu'r Rheoliadau Pensiwn ac yn diwygio Rheoliadau Awdurdodau Lleol (Lwfansau i Aelodau Awdurdodau Tân) (Cymru) 2004 ("y Rheoliadau Lwfansau Tân").

8. Ystyriwyd y byddai'n ddymunol gwahanu'r gwaith o bennu lwfansau o'r arena wleidyddol trwy sefydlu panel annibynnol ar gydnabyddiaeth ariannol. Mae'r gwaith o gynhyrchu rheoliadau newydd hefyd wedi galluogi'r Cynulliad i fynd i'r afael â rhai diwygiadau ac anomaledau sydd wedi codi dros y pum mlynedd diwethaf ac sydd wedi'u nodi isod.

9. Mae ymgynghoriadau llawn wedi'u cynnal ar yr egwyddorion polisi a'r rheoliadau drafft. Mae'r rheoliadau drafft hefyd wedi'u hystyried yng nghyfarfod Cyngor Partneriaeth Llywodraeth Leol ar 16 Tachwedd 2006.

## **Ystyriaeth**

10 Dyma'r prif gynigion yn y rheoliadau drafft:

### **a) Panel Annibynnol ar Gydabyddiaeth Ariannol**

(i) Bydd y Rheoliadau'n sefydlu'r Panel Annibynnol ar Gydabyddiaeth Ariannol ("y Panel") yn barhaol, ar gyfer cyngorau sir a chynghorau bwrdeistref sirol, i ragnodi mewn "adroddiad cychwynnol" y cyfrifoldebau a'r dyletswyddau y gellir talu lwfansau cyfrifoldeb arbennig a lwfans aelodau cyfetholedig ar eu cyfer ac uchafswm yr holl lwfansau sy'n daladwy (sef Lwfans Sylfaenol, lwfans cyfrifoldeb arbennig, lwfans gofal, lwfans teithio a chynhaliaeth a lwfans aelodau cyfetholedig). Bydd y Panel yn gallu rhagnodi

symiau gwahanol ar gyfer cyngorau gwahanol ac, at ddibenion y lwfans cyfrifoldeb arbennig a lwfans aelodau cyfetholedig, symiau gwahanol ar gyfer cyfrifoldebau a dyletswyddau gwahanol.

(ii) Ym mhob blwyddyn ddilynol, bydd yn ofynnol i'r Panel gynhyrchu adroddiad blynyddol a fyddai'n rhagnodi lefel uchaf yr addasiad (cynnydd) y gellir ei wneud i'r lwfansau hynny (trwy fynegai neu fel arall). Eto, bydd y Panel yn gallu rhagnodi symiau gwahanol ar gyfer cyngorau gwahanol. Hefyd, gall y Panel gyflwyno adroddiad ar unrhyw adeg arall os yw o'r farn bod angen – adroddiad atodol. Bydd hyn yn sicrhau bod gan y Panel yr hyblygrwydd nad oes ar gael yn Rheoliadau 2002.

(iii) Bydd y Panel hefyd yn gallu ymateb, mewn adroddiad atodol, i geisiadau penodol gan gyngorau sir a chynghorau bwrdeistref sirol. Fodd bynnag, ni fyddai ceisiadau o'r fath wedi'u cyfyngu i geisiadau'n ymwneud â'r lwfans cyfrifoldeb arbennig (fel sy'n wir yn Rheoliadau cyfredol 2002) ond, yn hytrach, byddent yn gallu cynnwys unrhyw fater sy'n ymwneud â'r cyfrifoldebau a'r dyletswyddau a all ddenu lwfans cyfrifoldeb arbennig a lwfans aelodau cyfetholedig ac uchafswm yr holl lwfansau sydd ar gael i gynghorwyr.

(iv) Bydd y Panel hefyd yn gallu gwneud argymhellion ynglŷn â phensiynau yn ôl yr angen.

(v) Bydd yn ofynnol i APCau ac Awdurdodau Tân ac Achub roi sylw i benderfyniadau'r Panel fel y maent yn berthnasol iddynt wrth newid lefel eu lwfansau.

#### b) Atal lwfansau

Bydd y Rheoliadau'n ei gwneud yn ofynnol i awdurdodau lleol ac APCau atal lwfans aelod yn ystod unrhyw gyfnod o waharddiad (mae darpariaethau o'r fath eisoes yn bodoli yn y Rheoliadau Lwfansau Tân). Hefyd, mae'r Rheoliadau'n caniatáu awdurdodau i adennill unrhyw lwfans sydd eisoes wedi'i dderbyn gan aelod am gyfnod a bod yr aelod hwnnw wedyn yn cael ei wahardd yn llawn neu'n rhannol yn ystod y cyfnod hwnnw.

#### c) Lwfans cyfrifoldeb arbennig y Dirprwy Arweinydd

Caiff y ddarpariaeth yn Rheoliadau cyfredol 2002, sy'n caniatáu i lwfans cyfrifoldeb arbennig aelod cabinet gael ei gynyddu 10% ar gyfer dirprwy arweinydd unigol, ei hymlacio fel y gall awdurdodau rannu'r 10% ychwanegol rhwng gwahanol gynghorwyr os oes mwy nag un dirprwy wedi'i benodi. Dylid nodi, fodd bynnag, y bydd y Rheoliadau'n cadw'r cyfyngiad na all mwy na 50% o holl aelodau awdurdod dderbyn lwfans cyfrifoldeb arbennig.

#### d) Cadeiryddion ac Is-gadeiryddion Pwyllgorau Trwyddedu

Bydd y Rheoliadau'n galluogi awdurdod lleol i uwchraddio'r lwfans cyfrifoldeb arbennig sy'n daladwy i Gadeirydd ac Is-gadeirydd Pwyllgor Trwyddedu i'r lwfans cyfrifoldeb arbennig a dderbynnir gan Gadeiryddion ac Is-gadeiryddion

Pwyllgorau Craffu a Chynllunio tan i'r Panel benderfynu ar yr ystod a'r swm sy'n daladwy.

e) Lwfansau Aelodau Cyfetholedig

Bydd y Rheoliadau'n galluogi awdurdodau lleol, APCau ac Awdurdodau Tân ac Achub i dalu lwfans aelodau cyfetholedig i aelodau anetholedig sy'n pleidleisio. Bydd Lwfans Colled Ariannol ar gael i aelodau cyfetholedig nad ydynt yn pleidleisio.

f) Teithio a chynhaliaeth

Bydd y Panel yn rhagnodi uchafswm lwfansau teithio a chynhaliaeth ac uchafswm yr addasiad blynyddol (trwy gyfeirio at fynegai o bosibl). Bydd y dyletswyddau y bydd lwfansau teithio a chynhaliaeth yn daladwy ar eu cyfer yn parhau i gael eu nodi mewn rheoliadau, yn ogystal â'r gofyniad i ddarparu derbynebau.

g) Lwfans gofal

Caiff y cyfyngiad cyfredol sy'n atal cynghorydd sir neu gynghorydd bwrdeistref sirol sy'n derbyn lwfans cyfrifoldeb arbennig o £15,000 neu fwy y flwyddyn rhag derbyn lwfans gofal ei godi. Hefyd, am y tro cyntaf, bydd y Rheoliadau'n caniatáu taliad "lwfans gofalwr" i bob pwrpas ar gyfer aelodau APCau.

h) Cyhoeddusrwydd

Yn ysbryd llywodraeth agored, bydd y Rheoliadau'n ymestyn y gofyniad cyhoeddusrwydd o dan Rheoliadau 2002 (sy'n ei gwneud yn ofynnol i awdurdodau gyhoeddi bob blwyddyn y cyfansymiau a delir i'w haelodau o ran Lwfans Sylfaenol, lwfans cyfrifoldeb arbennig, lwfans Presenoldeb a Lwfans Gofal) i gynnwys teithio a chynhaliaeth a'r lwfans aelodau cyfetholedig newydd a'r "lwfans gofalwr" newydd i aelodau APCau.

i) Amserlen

Bydd rhaid i'r Rheoliadau ddod i rym mewn dau gam – 1 Mehefin 2007 ar gyfer y darpariaethau hynny nad ydynt yn ddibynnol ar adroddiad y Panel a 30 Tachwedd 2008 (amcangyfrif – gweler iv isod) ar gyfer gweddill y darpariaethau.

(i) Cam 1: Daw'r darpariaethau sy'n cynnwys sefydlu'r Panel, cynyddu uchafswm y lwfans cyfrifoldeb arbennig sy'n daladwy i Gadeiryddion ac Is-gadeiryddion Pwyllgorau Trwyddedu, atal ac adennill lwfansau aelodau gwaharddedig, rhannu lwfans cyfrifoldeb arbennig y Dirprwy Arweinydd a chyflwyno'r "lwfans gofalwr" i aelodau APCau i rym ar 1 Mehefin 2007.

(ii) Dylid penodi i'r Panel yn unol â gofynion Swyddfa'r Comisiynydd dros Benodiadau Cyhoeddus a Chod Ymarfer y Cynulliad ar Benodiadau

Cyhoeddus. Dylid cynnal cyfarfod cyntaf y Panel o fewn 6 wythnos i benodi'r aelodau (oddeutu Ionawr 2008).

(iii) 31 Gorffennaf 2008 – y dyddiad olaf ar gyfer cyhoeddi adroddiad “cychwynnol” (a hynod gynhwysfawr) y Panel.

(iv) Daw gweddill y darpariaethau i rym (oddeutu) 30 Tachwedd 2008 (yn dibynnu ar y dyddiad y bydd y Panel yn cynhyrchu ei adroddiad “cychwynnol”), gan gynnwys cyflwyno'r lwfans aelodau cyfetholedig. Bydd yn ofynnol i awdurdodau lleol sefydlu cynlluniau lwfansau newydd, gan roi sylw i benderfyniadau'r Panel. Ar gyfer y cyfnod rhwng (oddeutu) 30 Tachwedd 2008 a 31 Mawrth 2009, bydd uchafswm y lwfansau sy'n daladwy gan awdurdodau lleol yn gymesur ag uchafswm y lwfansau perthnasol (yn sgil adroddiad y Panel) a fyddai fel arall ar waith pe bai'r cynlluniau newydd wedi bod ar waith drwy gydol blwyddyn ariannol 2008/09. Bydd yn ofynnol i APCau ac Awdurdodau Tân ac Achub ystyried penderfyniadau'r Panel fel y maent yn berthnasol i'w hawdurdodau wrth newid lefel eu lwfansau.

## **Cyllid**

11 Mae gan y gwaith o gyflwyno'r Rheoliadau hyn oblygiadau ariannol i awdurdodau a'r Cynulliad.

### **(a) Goblygiadau i Awdurdodau**

O dan y Rheoliadau newydd, bydd awdurdodau'n parhau i bwyso a mesur eu cyfyngiadau cyllidebol wrth bennu eu cynlluniau lwfansau. Bydd rhai lwfansau penodol yn parhau i fod yn faterion dewisol sydd i'w hystyried gan bob awdurdod, gyda'r Panel, yn hytrach na'r Cynulliad, yn pennu uchafsymiau ar gyfer lwfansau ac uchafswm y cynnydd blynyddol mewn lwfansau. Yr eithriad fydd y Lwfans Sylfaenol, gan ei bod yn ofynnol i awdurdodau sicrhau ei fod ar gael i'w holl gynghorwyr (er y byddai'r Panel yn pennu uchafsymiau ac uchafswm y cynnydd blynyddol) a lwfansau teithio a chynhaliaeth.

### **(b) Goblygiadau i'r Cynulliad**

Byddai'r Cynulliad yn gyfrifol am dalu'r gost o recriwtio aelodau i'r Panel a chostau rhedeg (a fydd yn cynnwys talu ffi dyddiol i aelodau) a gweinyddu'r Panel. Amcangyfrifir y bydd hyn tua £50,000 ym mhob blwyddyn ariannol.

## **Camau gweithredu ar gyfer y Pwyllgor Pwnc**

12 Gwahoddir y Pwyllgor i gymeradwyo cynnwys y rheoliadau hyn, a gaiff eu hystyried gan y Cynulliad ar 28 Mawrth 2007.

Sue Essex

Gweinidog dros Gyllid, Llywodraeth Leol a Gwasanaethau Cymdeithasol

Cyswllt: Frank Cuthbert, Is-adran Polisi Llywodraeth Leol, ffôn 029 2082 3094

To: Business Committee

From: Sue Essex AM  
Minister for Finance, Local Government and Public Services

## **DRAFT EXPLANATORY MEMORANDUM**

### **LOCAL GOVERNMENT, WALES**

#### **THE LOCAL AUTHORITIES (ALLOWANCES FOR MEMBERS) (WALES) REGULATIONS 2007**

##### **Summary**

These Regulations make provision about the payment of allowances to members of county and county borough councils, National Park Authorities and Fire and Rescue Authorities in Wales. They enable county and county borough councils to introduce schemes of allowances and to annually adjust the rates of allowances. They introduce, for the first time, the ability of local authorities to withhold and recover the allowances of suspended members and enable the payment of an allowance to co-opted members. They provide for the administrative arrangements for payment of allowances. The Regulations enable the Assembly to establish an independent remuneration panel to make decisions on the maximum levels of allowances payable by authorities and the method of appointment of such a panel.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to The Local Authorities (Allowances for Members) (Wales) Regulations 2007 in accordance with Standing Order 24.6.
2. A copy of the Instrument is submitted with this Memorandum.

##### **Enabling Powers**

3. These Regulations are made in exercise of the powers in section 18 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 and 105 of the Local Government Act 2000, having carried out such consultation as is required by section 100(5) of the Local Government Act 2000. Under the post 2007 arrangements, we foresee that this legislation would follow the Negative procedure.

##### ***Background***

4. Part V of the Local Government Act 2000 ("the 2000 Act") includes provisions concerning allowances and pensions for members of local authorities. Section 99 of that Act substantially amended section 18 of the

Local Government and Housing Act 1989 (“the 1989 Act”), which provides for schemes for basic, attendance and special responsibility allowances for members of local authorities.

5. *The Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002* (“the 2002 regulations”) were made by the Assembly under section 18 of the 1989 Act and section 100 of the 2000 Act. They require each county and county borough council and National Park Authority in Wales (NPAs) to make, and publicise, a scheme of allowances for their members. All members are entitled to receive a Basic Allowance and travel and subsistence allowance and certain members, in categories listed in the 2002 Regulations, are entitled to Special Responsibility Allowances (SRA). Members of National Park Authorities only are entitled to an Attendance Allowance, whilst members of county and county borough councils only are entitled to care (or dependants’) allowances in respect of children and dependent adults. Financial loss allowances may be paid to members who are not councillors (i.e. non-elected members of council committees or National Park Authorities). The 2002 Regulations also provide for the annual uprating of allowances.
6. The 2002 Regulations are supported by Statutory Guidance. The Guidance sets the maximum amount payable for Basic Allowance each year, in accordance with a specified index. The Guidance also sets the maximum rates payable for SRA, which varies in accordance with the post held and the population size of the council, and stipulates that such allowances may be uprated in line with increases in Assembly Members’ pay. The Guidance also stipulates that no authority may pay more than one SRA to a member of that authority. The maximum amount of care allowance is also detailed, together with annual uprating, also linked to increases in Assembly Members’ pay.
7. *The Local Authorities (Allowances for Members of County and County Borough Councils) (Pensions) (Wales) Regulations 2003* enable local authorities to determine which of their elected members should be entitled to join the Local Government Pension Scheme, subject to those members having first been recommended to do so by the Welsh Independent Remuneration Panel. The Regulations enabled the establishment of the Panel for a temporary period of six months.
8. *The Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004 (as amended)* require Fire and Rescue Authorities in Wales to make a scheme for the payment of allowances. The Regulations provide for the payment of an allowance for Members, Chairpersons and Vice-chairpersons. They also provide for the payment of a care allowance and for travel and subsistence. The amount of the annual adjustment to a fire authority allowance, the allowances for chairpersons and vice-chairpersons and the care allowance is restricted to the average of any adjustments each year made by the Fire and Rescue Authority’s constituent councils in respect of Basic, SRA and care allowance,

respectively. These regulations also provide for a Fire and Rescue Authority to withhold and recover allowances paid to a suspended member.

### **Effect**

9. The Local Authorities (Allowances for Members) (Wales) Regulations 2007 revoke the 2002 Regulations, in so far as they apply to members of county and county borough councils, and amend them in so far as they apply to members of NPAs. They revoke the Local Authorities (Allowances for Members of County and County Borough Councils) (Pensions) (Wales) Regulations 2003. They also amend the Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004.

### **10 The main proposals in the Regulations in respect of members of county and county borough councils are:-**

#### **(a) Independent Remuneration Panel**

- For an independent remuneration panel (“the Panel”) to be established, on a permanent basis, for county and county borough councils, to prescribe in an “initial report” the responsibilities and duties that may attract SRAs and co-optees’ allowance and the maximum level of all allowances payable (namely Basic Allowance, SRA, care allowance, travel and subsistence allowance and co-optees’ allowance. The Panel would be able to prescribe different amounts for different councils and, for the purposes of SRA and co-optees’ allowance, different amounts for different councils.
- In each subsequent year the Panel would be required to produce an “annual report” which would prescribe the maximum level of adjustment (uprating) that may be made to those allowances (by index or otherwise). Again, the Panel would be able to prescribe different amounts for different councils.
- In addition the Panel would, in “supplementary reports” be able to report at such other times as it considered necessary. Through such reports the Panel would also be able to respond to specific requests from county and county borough councils on any matter concerning the responsibilities and duties that may attract SRA and co-optees’ allowance and the maximum level of all the allowances available to councillors. This would ensure that the Panel has the flexibility which is not available in the 2002 Regulations.
- The Panel would also be able to make recommendations in the “initial” and “supplementary reports” about pensions if and when the need arose.
- It is proposed that the Panel’s first report, their “initial” report should be published by the end of July 2008 (or such later date as the National Assembly for Wales may agree).

#### **(b) Withholding of allowances**



- Local authorities would be required to withhold a member's allowance during any period of suspension and would have the discretion to recover an allowance already received by a member for a period for which the member is subsequently suspended/partially suspended.

(c) Deputy Leader's SRA (Vice Chair under Alternative Arrangements)

- The current provision which allows for a 10% mark-up over and above a cabinet member's SRA for a single deputy leader would be relaxed to allow authorities to share the 10% addition between different councillors where more than one deputy has been appointed. It should be noted, however, that the regulations would retain the restriction that no more than 50% of all members of an authority may receive a SRA.

(d) Chairs and vice chairs of licensing committees

- Once the Regulations come into force a local authority would be entitled to uprate their level of SRA payable to a Chair and Vice-Chair of a Licensing Committee to that received by their Chairs and Vice-Chairs of Scrutiny and Planning Committees, until such time as the Panel makes its determinations on the range and amount of SRAs payable.

(e) Co-optees' Allowance

- A discretionary co-optees' allowance would replace the Financial Loss Allowance for non-elected members with voting rights. The Panel would *prescribe* maximum levels of co-optee allowance and *prescribe* the maximum annual adjustment to co-optee allowance for each authority.

(f) Travel and subsistence

- The Panel would prescribe the maximum levels of travel and subsistence allowances and the maximum level of annual adjustment (which could be by reference to an index). The duties for which travel and subsistence would be payable would continue to be set out in the Regulations. Receipts for travel and subsistence claims must be provided and such claims must be made within a time limit specified by the authority.

(g) Care allowance

- The current restriction which prevents a councillor in receipt of a SRA of £15,000+ pa from receiving a care allowance would be lifted as soon as the Regulations come into force.

(h) Publicity

- The publicity requirements in the 2002 Regulations, requiring publication of the total sums paid to each member in respect of Basic Allowance, SRA and care allowance are to be extended to include travel and subsistence and co-optees' allowance.

**11 The main proposals in the Regulations in respect of members of NPAs are:-**

- When making or amending their scheme of allowances, NPAs would be required to have regard to the matters prescribed by the Panel in respect of types and maximum levels of allowances payable to a NPA's constituent county and county borough councils.
- Reimbursement of expenses to members in arranging for the care of children or dependants under section 100(d) of the Local Government Act 2000 (in effect a "carer's allowance"). The maximum amount payable would be the average of the maximum set by the constituent county and county borough councils.
- The introduction of an allowance for co-opted members with voting rights. The maximum amount payable would be the average amount of this allowance paid by NPAs constituent county and county borough councils.
- A Financial Loss Allowance to continue to be available to co-opted members without voting rights, although this would become discretionary with the introduction of the allowance for co-opted members with voting rights (circa 30 November 2008).
- A discretionary Attendance Allowance to continue to be available to councillors.
- In determining rates of travel and subsistence allowances a NPA would be required to have regard to the relevant provisions of the Panel's reports. A NPA would also be required to set a time-limit for receipt of claims for travel and subsistence.
- There would be a requirement to withhold a member's allowance on suspension, with the discretion to recover an allowance already paid during the period of suspension.
- The current requirement for publication of total amounts paid to members (in respect of Basic Allowance, SRA and Attendance Allowance) to be extended to include travel and subsistence, the new "carer's allowance", the new co-optees' allowance and Financial Loss Allowance.

## **12 The main provisions in the Regulations in respect of members of Fire and Rescue Authorities are:-**

- Fire and Rescue Authorities would have the discretion to pay a co-optees' allowance to their non-elected members with voting rights and to withhold payment on suspension of the member, with the discretion to recover the allowance if already paid. The maximum amount payable would be the average amount of this allowance paid by the fire and rescue authority's constituent county and county borough councils.
- In line with the other authorities, Fire and Rescue Authorities would be required to set a time-limit for the receipt of travel and subsistence claims.
- The requirement for publication of total amounts paid to members is to be extended to include travel and subsistence and co-optees' allowance.
- These regulations also correct a number of minor drafting errors in The Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004 (which were made by Executive Procedure), identified by Legislation Committee in their report of 30 November 2004 (LC961).

## **13 Timetable**

It will be necessary for the Regulations to come into force in two stages – 1 June 2007 for those provisions which are not dependent on the production of the Panel's report and 30 November 2008 (circa – see iv below) for the remainder of the provisions.

- Stage 1: 1 June 2007 will bring into force the provisions which include the establishment of the Panel, the increase in the maximum level of SRA payable to Chairs and Vice-Chairs of Licensing Committees, the withholding and recovery of allowances for suspended members, the sharing of the Deputy Leader's SRA and the introduction of the "carer's allowance" for members of NPAs.
  - Panel appointments to be made in accordance with the requirements of the Office of the Commissioner for Public Appointments and the Assembly's Code of Practice on Public Appointments. First meeting of the Panel to be within 6 weeks of their appointment (likely to be circa January 2008).
  - 31 July 2008 – latest date for publication of Panel's "initial" (and very comprehensive) report.
  - Remaining provisions come into force (circa) 30 November 2008 (ultimately dependent upon date on which the Panel produces its "initial" report) including the introduction of the co-optees' allowance. Local authorities will be required to establish new schemes of allowances, having regard to the determinations made by the Panel. For the period (circa) 30 November 2008 to 31 March 2009, the maximum amount of allowances payable by local authorities will be proportionate to the maximum amount of allowances applicable (in light of the Panel's report) that would otherwise have operated if the new schemes had been in operation for the full financial year 2008/09. NPAs and Fire and Rescue Authorities will be required to have regard to the Panel's determinations as they apply to their constituent authorities when making changes to their levels of allowances.
- 14 These Regulations generally match Whitehall but with some distinct Welsh Provision. The distinct Welsh provisions include the requirement to withhold a member's allowance(s) on suspension; in England this is discretionary. Welsh authorities will also have the discretion to recover allowances already paid during a period of suspension.

### **Target Implementation**

- 15 It is intended that the proposed Instrument be made on 28<sup>th</sup> March 2007, with a first coming into force date of 1 June 2007 (see paragraph 13 above). If the target dates are not achieved, there will be a delay in the Assembly being able to establish the Independent Remuneration Panel and a subsequent delay in the Panel's ability to produce their report.
- 16 Comparable legislation, in terms of the establishment of independent remuneration panels, came into force in England in 2003 (The Local Authorities (Members' Allowances) (England) Regulations 2003 SI No. 1021).

## **Financial Implications**

- 17 The estimated cost for the Assembly in the establishment and operation of the Panel, and the publication of their reports, is £50,000 per year. This cost will be borne within existing and planned budgets in the Local Government MEG.
- 18 Authorities will need to consider their budgetary constraints in determining their scheme of allowances, and other allowances payable, as exists under the current arrangements. Certain allowances would continue to be discretionary matters for consideration by each Authority, with the Panel, rather than the Assembly setting maximum amounts for allowances and maximum annual increases to allowances. The exception to this would continue to be the Basic Allowance, which authorities are required to make available to all their councillors (although the Panel would set maximum amounts and maximum annual increases) and also travel and subsistence allowance which will continue to be an entitlement.

## **Regulatory Appraisal**

19. A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

## **Consultation**

### With Stakeholders

20. An initial policy consultation took place between 9 February 2005 and 5 May 2005. That sought the views of Chief Executives and Legal Officers of County and County Borough Councils in Wales, the Welsh Local Government Association (WLGA), Chief Executives of National Park Authorities, Chief Fire Officers, Chief Constables, Assembly Members, Political Parties, the Audit Commission in Wales (now the Wales Audit Office) and the then Local Government Ombudsman.

21. There were thirty-three responses to the consultation exercise. Support was given to all but one the proposals put forward in the consultation. The exception was the proposal that County Councillors who also served on National Park Authorities, Police or Fire and Rescue Authorities should not be able to receive more than one SRA. This proposal was subsequently withdrawn and is not included in the regulations.

22. Draft Regulations issued for consultation from 26<sup>th</sup> October 2006 to 21<sup>st</sup> December 2006. Those consulted comprised Leaders, Chief Executives and Monitoring Officers of County and County Borough Councils, the Leader and Director of the WLGA, Chairs and Chief Executives of National Park Authorities, Chairs and Clerks to Fire and Rescue Authorities, the Chair and Chief Executive of One Voice Wales, Clerks to Police Authorities, the Wales Audit Office, the Public Services Ombudsman Wales, the Society of Local Authority Chief Executives, the Society of Welsh Treasurers, the Secretary to Police Authorities of Wales, the Welsh Association of National Park Authorities, the Wales Council for Voluntary Action, Chairs of Standards Committees in local authorities, Assembly Members and Political Parties.

23. Nineteen responses were received, from 12 local authorities, the WLGA, 2 Fire and Rescue Authorities, the 3 NPAs and a.n.other (wishes their details to remain confidential). Respondents were overwhelmingly in support of the contents of the draft regulations but comments were made on some points of detail. A summary of the consultation responses, together with the Assembly's response to the comments made, is at Annex A to the Regulatory Appraisal. These are detailed at Annex A to the Regulatory Appraisal together with the Assembly's response. Annex B details a number of other changes made to the Regulations, subsequent to the consultation exercise.

24. Owing to an oversight the draft regulations which issued for consultation did not contain provisions requiring Fire and Rescue Authorities (in line with county and county borough councils and National Park Authorities) to specify a time-limit for the receipt of claims for travel and subsistence and the new co-optees' allowance (although the latter provision has subsequently been dropped in response to other consultation responses received). The draft Regulations also omitted to include provisions extending the publicity requirement to include travel and subsistence allowance and co-optees' allowance. Reference was however made to these proposals in the accompanying letter of consultation. For completeness officials wrote to Fire and Rescue Authorities on 7 February 2007 inviting them to submit comments on these 2 proposals by 22 February. A joint response was received on behalf of all three fire and rescue authorities giving their support to the proposals.

#### With Partnership Council

25. The Local Government Partnership Council considered the draft of the Regulations which issued for consultation, at their meeting of 16 November 2006. The Regulations were welcomed although a small number of queries were raised - about the Panel membership (in particular the need to ensure their independence) and the method of determining the level of the new co-optees' allowance. The relevant extract from the draft minutes is attached to the Regulatory Appraisal at Annex C; **(Drafting Note - these minutes cannot be finalised until the next meeting of the Partnership Council, arranged for 8 March 2007).**

#### With Subject Committee

Members of the Local Government and Public Services Committee were included in the policy consultation, which took place in 2005, and were also sent copies of the draft regulations, and covering letter, which issued for consultation in October 2006. One Committee member, Tamsin Dunwoody-Kneafsey AM, responded to the policy consultation. She welcomed the proposals set out in the consultation letter, particularly the proposal to prevent members of more than one Authority from receiving more than one SRA – this proposal was subsequently withdrawn and is not included in the regulations (paragraph 21 above refers).

19 These Regulations were notified to Subject Committee, via the list of forthcoming legislation on 25 February 2004 (LGPS 02-04 Item 7.1) and have

remained on the list ever since. However at that time the title of the legislation was The Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Amendment) (Wales) Regulations 2003. The Committee identified these Regulations for scrutiny and they were considered at the meeting of 7 March 2007. **RESULTS OF SCRUTINY BY SUBJECT COMMITTEE TO BE INSERTED**

### **Recommended Procedure**

20. Subject to the views of Business Committee, I recommend that these Regulations proceed to Plenary under the Standard procedure to give Members an opportunity to debate them.

### **Compliance**

21. The proposed legislation will (as far as is applicable):-

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998, section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106);
- be compatible with the Assembly's human rights legislation (section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

22. Head of Division – John Palmer (x3609)

23. Drafting Lawyer – Simon Moss (x 5958)

24. Policy division contact – Caroline Thomas (x1047)

**SUE ESSEX**

**MARCH 2007**

**MINISTER FOR FINANCE, LOCAL GOVERNMENT AND PUBLIC SERVICES**

## DRAFT REGULATORY APPRAISAL

### LOCAL GOVERNMENT, WALES

#### THE LOCAL AUTHORITIES (ALLOWANCES FOR MEMBERS) (WALES) REGULATIONS 2007

##### Background

1. Part V of the Local Government Act 2000 ("the 2000 Act") includes provisions concerning allowances and pensions for members of local authorities. Section 99 of that Act substantially amended section 18 of the Local Government and Housing Act 1989 ("the 1989 Act"), which provides for schemes for basic, attendance and special responsibility allowances for members of local authorities.
2. *The Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002* ("the 2002 regulations") were made by the Assembly under section 18 of the 1989 Act and section 100 of the 2000 Act. They require each county and county borough council and National Park Authority in Wales to make, and publicise, a scheme of allowances for their members. All members are entitled to receive a Basic Allowance and travel and subsistence allowance and certain members, in categories listed in the 2002 Regulations, are entitled to Special Responsibility Allowances (SRA). Members of National Park Authorities only are entitled to an Attendance Allowance, whilst members of county and county borough councils only are entitled to care (or dependants') allowances in respect of children and dependent adults. Financial loss allowances may be paid to members who are not councillors (i.e. non-elected members of council committees or National Park Authorities). The 2002 Regulations also provide for the annual uprating of allowances.
3. The 2002 Regulations are supported by Statutory Guidance. The Guidance sets the maximum amount payable for Basic Allowance each year, in accordance with a specified index. The Guidance also sets the maximum rates payable for SRA, which varies in accordance with the post held and the population size of the council, and stipulates that such allowances may be uprated in line with increases in Assembly Members' pay. The Guidance also stipulates that no authority may pay more than one SRA to a member of that authority. The maximum amount of care allowance is also detailed, together with annual uprating, also linked to increases in Assembly Members' pay.
4. *The Local Authorities (Allowances for Members of County and County Borough Councils) (Pensions) (Wales) Regulations 2003* enable local authorities to determine which of their elected members should be entitled to join the Local Government Pension Scheme, subject to those members

have first been recommended to do so by the Welsh Independent Remuneration Panel. The Regulations enabled the establishment of the Panel for a temporary period of six months.

5. *The Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004 (as amended)* require Fire and Rescue Authorities in Wales to make a scheme for the payment of allowances. The Regulations provide for the payment of an allowance for Members, Chairpersons and Vice-chairpersons. They also provide for the payment of a care allowance and for travel and subsistence. The amount of the annual adjustment to a fire authority allowance, the allowances for chairpersons and vice-chairpersons and the care allowance is restricted to the average of any adjustments each year made by the Fire and Rescue Authority's constituent councils in respect of Basic, SRA and care allowance, respectively. These regulations also provide for a Fire and Rescue Authority to withhold and recover allowances paid to a suspended member.

#### **Purpose and intended effect of the measure**

6. The Local Authorities (Allowances for Members) (Wales) Regulations 2007 revoke the 2002 Regulations, in so far as they apply to members of county and county borough councils, and amend them in so far as they apply to members of NPAs. They revoke the Local Authorities (Allowances for Members of County and County Borough Councils) (Pensions) (Wales) Regulations 2003. They also amend the Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004.

#### **7. The main proposals in the Regulations in respect of members of county and county borough councils are:-**

##### **(a) Independent Remuneration Panel**

- For an independent remuneration panel ("the Panel") to be established, on a permanent basis, for county and county borough councils, to prescribe in an "initial report" the responsibilities and duties that may attract SRA or co-optees' allowance and the maximum level of all allowances payable (namely Basic Allowance, SRA, care allowance, travel and subsistence allowance and co-optees' allowance. The Panel would be able to prescribe different amounts for different councils and, for the purposes of SRA and co-optees' allowance, different amounts for different councils.
- In each subsequent year the Panel would be required to produce an "annual report" which would prescribe the maximum level of adjustment (uprating) that may be made to those allowances (by index or otherwise). Again, the Panel would be able to prescribe different amounts for different councils.
- In addition the Panel would, in "supplementary reports" be able to report at such other times as it considered necessary. Through such reports the Panel would also be able to respond to specific requests from county and county borough councils on any matter concerning the responsibilities and



duties that may attract SRA and co-optees' allowance and the maximum level of all the allowances available to councillors. This would ensure that the Panel has the flexibility which is not available in the 2002 Regulations.

- The Panel would also be able to make recommendations in the "initial" and "supplementary reports" about pensions if and when the need arose.
- It is proposed that the Panel's first report, their "initial" report should be published by the end of July 2008 (or such later date as the National Assembly for Wales may agree).

(b) Withholding of allowances

- Local authorities would be required to withhold a member's allowance during any period of suspension and would have the discretion to recover an allowance already received by a member for a period for which the member is subsequently suspended/partially suspended.

(c) Deputy Leader's SRA (Vice Chair under Alternative Arrangements)

- The current provision which allows for a 10% mark-up over and above a cabinet member's SRA for a single deputy leader would be relaxed to allow authorities to share the 10% addition between different councillors where more than one deputy has been appointed. It should be noted, however, that the Regulations would retain the restriction that no more than 50% of all members of an authority may receive a SRA.

(d) Chairs and vice chairs of licensing committees

- Once the Regulations come into force a local authority would be entitled to uprate their level of SRA payable to a Chair and Vice-Chair of a Licensing Committee to that received by their Chairs and Vice-Chairs of Scrutiny and Planning Committees, until such time as the Panel makes its determinations on the range and amount of SRAs payable.

(e) Co-optees' Allowance

- A discretionary co-optees' allowance would replace the Financial Loss Allowance for non-elected members with voting rights. The Panel would *prescribe* maximum levels of co-optee allowance and *prescribe* the maximum annual adjustment to co-optee allowance for each authority.

(f) Travel and subsistence

- The Panel would prescribe the maximum levels of travel and subsistence allowances and the maximum level of annual adjustment (which could be by reference to an index). The duties for which travel and subsistence would be payable would continue to be set out in the Regulations. Receipts for travel and subsistence claims must be provided and such claims must be made within a time limit specified by the authority.

(g) Care allowance

- The current restriction, which prevents a councillor in receipt of a SRA of £15,000+ pa from receiving a care allowance, would be lifted as soon as the Regulations come into force.

#### (h) Publicity

- The publicity requirements in the 2002 Regulations, requiring publication of the total sums paid to each member in respect of Basic Allowance, SRA and care allowance are to be extended to include travel and subsistence and co-optees' allowance.

#### **8. The main proposals in the Regulations in respect of members of NPAs are:-**

- When making or amending their scheme of allowances, NPAs would be required to have regard to the matters prescribed by the Panel in respect of types and maximum levels of allowances payable to a NPA's constituent county and county borough councils.
- Reimbursement of expenses to members in arranging for the care of children or dependants under section 100(d) of the Local Government Act 2000 (in effect a "carer's allowance"). The maximum amount payable would be the average of the maximum set by the constituent county and county borough councils.
- The introduction of an allowance for co-opted members with voting rights. The maximum amount payable would be the average amount of this allowance paid by NPAs constituent county and county borough councils.
- A Financial Loss Allowance to continue to be available to co-opted members without voting rights, although this would become discretionary with the introduction of the allowance for co-opted members with voting rights (circa 30 November 2008).
- A discretionary Attendance Allowance to continue to be available to councillors.
- In determining rates of travel and subsistence allowances a NPA would be required to have regard to the relevant provisions of the Panel's reports. A NPA would also be required to set a time-limit for receipt of claims for travel and subsistence.
- There would be a requirement to withhold a member's allowance on suspension, with the discretion to recover an allowance already paid during the period of suspension.
- The current requirement for publication of total amounts paid to members (in respect of Basic Allowance, SRA and Attendance Allowance) to be extended to include travel and subsistence, the new "carer's allowance", the new co-optees' allowance and Financial Loss Allowance.

#### **9. The main provisions in the Regulations in respect of members of Fire and Rescue Authorities are:-**

- Fire and Rescue Authorities would have the discretion to pay a co-optees' allowance to their non-elected members with voting rights and to withhold payment on suspension of the member, with the discretion to recover the allowance if already paid. The maximum amount payable would be the

average amount of this allowance paid by the fire and rescue authority's constituent county and county borough councils.

- In line with the other authorities, Fire and Rescue Authorities would be required to set a time-limit for the receipt of travel and subsistence claims.
- The requirement for publication of total amounts paid to members is to be extended to include travel and subsistence and co-optees' allowance.
- These regulations also correct a number of minor drafting errors in The Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004 (which were made by Executive Procedure), identified by Legislation Committee in their report of 30 November 2004 (LC961).

## **10 Timetable**

It will be necessary for the Regulations to come into force in two stages – 1 June 2007 for those provisions which are not dependent on the production of the Panel's report and 30 November 2008 (circa – see iv below) for the remainder of the provisions.

- Stage 1: 1 June 2007 will bring into force the provisions which include the establishment of the Panel, the increase in the maximum level of SRA payable to Chairs and Vice-Chairs of Licensing Committees, the withholding and recovery of allowances for suspended members, the sharing of the Deputy Leader's SRA and the introduction of the "carer's allowance" for members of NPAs.
- Panel appointments to be made in accordance with the requirements of the Office of the Commissioner for Public Appointments and the Assembly's Code of Practice on Public Appointments. First meeting of the Panel to be within 6 weeks of their appointment (likely to be circa January 2008).
- 31 July 2008 – latest date for publication of Panel's "initial" (and very comprehensive) report.
- Remaining provisions come into force (circa) 30 November 2008 (ultimately dependent upon date on which the Panel produces its "initial" report) including the introduction of the co-optees' allowance. Local authorities will be required to establish new schemes of allowances, having regard to the determinations made by the Panel. For the period (circa) 30 November 2008 to 31 March 2009, the maximum amount of allowances payable by local authorities will be proportionate to the maximum amount of allowances applicable (in light of the Panel's report) that would otherwise have operated if the new schemes had been in operation for the full financial year 2008/09. NPAs and Fire and Rescue Authorities will be required to have regard to the Panel's determinations as they apply to their constituent authorities when making changes to their levels of allowances.

## **Risk assessment**

- 11 It is considered desirable to separate the setting of allowances from the political arena. This will be achieved through the establishment of the Independent Remuneration Panel. The production of new regulations will also enable the Assembly to address some reforms and anomalies which have arisen over the last five years and which have been detailed above.

## **Options**

### Option 1: Do Nothing

- 12 Failure to make these Regulations would mean that the proposed independent remuneration panel would not be created and other reforms to the existing regime on allowances would not be introduced. The existing link with Assembly members' pay and allowances is not considered healthy as an adjustment to one automatically triggers a change to maximum rates for the other. This places an undue burden on decision-makers when considering AM's remuneration.

### Option 2: Make the Legislation

- 13 The Regulations will not only separate the setting of allowances from the political arena but will also recognise the new burdens placed on chairs and vice chairs of licensing committees by the Licensing Act 2003 and the increased role of co-opted members, particularly on Standards Committees. The Regulations also clarify the issue of non-payment (and recovery) of allowances paid to members suspended from duty.

## **Benefits**

- 14 Establishing a remuneration panel will take the setting of maximum rates out of the political arena and allow an impartial eye to judge on councillors' remuneration. This is considered important in an era when service in public office is not always considered worthy.

## **Costs**

- 15 The estimated cost for the Assembly in the establishment and operation of the Panel, and the publication of their reports, is £50,000 per year. This cost will be borne within existing and planned budgets in the Local Government MEG.
- 16 Authorities will need to consider their budgetary constraints in determining their scheme of allowances, and other allowances payable, as exists under the current arrangements. Certain allowances would continue to be discretionary matters for consideration by each Authority, with the Panel, rather than the Assembly setting maximum amounts for allowances and maximum annual increases to allowances. The exception to this would continue to be the Basic Allowance, which authorities are required to make available to all their councillors (although the Panel would set maximum amounts and maximum annual increases) and also travel and subsistence allowance which will continue to be an entitlement.

## **Competition assessment**

- 17 The introduction of these regulations will not have an impact on other sectors and no competition filter is required.

## **Consultation**

### With Stakeholders

- 18 An initial policy consultation took place between 9 February 2005 and 5 May 2005. That sought the views of Chief Executives and Legal Officers of County and County Borough Councils in Wales, the Welsh Local Government Association (WLGA), Chief Executives of National Park Authorities, Chief Fire Officers, Chief Constables, Assembly Members, Political Parties, the Audit Commission in Wales (now the Wales Audit Office) and the then Local Government Ombudsman.
- 19 There were thirty-three responses to the consultation exercise. Support was given to all but one the proposals put forward in the consultation. The exception was the proposal that County Councillors who also served on National Park Authorities, Police or Fire and Rescue Authorities should not be able to receive more than one SRA. This proposal was subsequently withdrawn and is not included in the regulations.
- 20 Draft Regulations issued for consultation from 26th October 2006 to 21<sup>st</sup> December 2006. Those consulted comprised Leaders, Chief Executives and Monitoring Officers of County and County Borough Councils, the Leader and Director of the WLGA, Chairs and Chief Executives of National Park Authorities, Chairs and Clerks to Fire and Rescue Authorities, the Chair and Chief Executive of One Voice Wales, Clerks to Police Authorities, the Wales Audit Office, the Public Services Ombudsman Wales, the Society of Local Authority Chief Executives, the Society of Welsh Treasurers, the Secretary to Police Authorities of Wales, the Welsh Association of National Park Authorities, the Wales Council for Voluntary Action, Chairs of Standards Committees in local authorities, Assembly Members and Political Parties.
- 21 Nineteen responses were received, from 12 local authorities, the WLGA, 2 Fire and Rescue Authorities, the 3 NPAs and a.n.other (they wish their details to be kept confidential). Respondents were overwhelmingly in support of the contents of the draft regulations but comments were made on some points of detail. A summary of the consultation responses, together with the Assembly's response to the comments made, is at Annex A. Annex B details a number of other changes made to the draft Regulations, subsequent to the consultation exercise.
- 22 Owing to an oversight the draft regulations which issued for consultation did not contain provisions requiring Fire and Rescue Authorities (in line with county and county borough councils and National Park Authorities) to specify a time-limit for the receipt of claims for travel and subsistence and the new co-optees' allowance (although the latter provision has subsequently been dropped in response to other consultation responses received). The draft Regulations also omitted to include provisions extending the publicity requirement to include travel and subsistence allowance and co-optees' allowance. Reference was however made to these proposals in the accompanying letter of consultation. For completeness officials wrote to Fire and Rescue Authorities on 7 February

2007 inviting them to submit comments on these 2 proposals by 22 February. A joint response was received on behalf of the three Fire and Rescue Authorities giving their support to the proposals.

#### With Partnership Council

- 23 The Local Government Partnership Council considered the draft of the Regulations, which issued for consultation, at their meeting of 16 November 2006. The Regulations were welcomed although a small number of queries were raised - about the Panel membership (in particular the need to ensure their independence) and the method of determining the level of the new co-optees' allowance. The relevant extract from the draft minutes is attached at Annex C. **(Drafting Note – these minutes cannot be finalised until the next meeting of the Partnership Council, arranged for 8 March 2007).**

#### **With Subject Committee**

- 24 Members of the Local Government and Public Services Committee were included in the policy consultation, which took place in 2005, and were also sent copies of the draft regulations, and covering letter, which issued for consultation in October 2006. One Committee member, Tamsin Dunwoody-Kneafsey AM, responded to the policy consultation. She welcomed the proposals set out in the consultation letter, particularly the proposal to prevent members of more than one Authority from receiving more than one SRA – this proposal was subsequently withdrawn and is not included in the regulations (paragraph 19 above refers).
- 25 These Regulations were notified to Subject Committee, via the list of forthcoming legislation on 25 February 2004 (LGPS 02-04 Item 7.1) and have remained on the list ever since. However at that time the title of the legislation was The Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Amendment) (Wales) Regulations 2003. The Committee identified these Regulations for scrutiny and they were considered at the meeting of 7 March 2007. **RESULTS OF SCRUTINY BY SUBJECT COMMITTEE TO BE INSERTED**

#### **Review**

- 26 Once the Panel is in existence, the Regulations should give it sufficient flexibility to avoid the need for revision of these regulations for the foreseeable future.

#### **Summary**

- 27 These Regulations will impact on county and county borough councils, National Park Authorities and Fire and Rescue Authorities and are designed to ensure fair remuneration for their members.

**SUMMARY OF RESPONSES TO CONSULTATION ON REGULATIONS  
CONCERNING ALLOWANCES FOR MEMBERS OF COUNTY AND  
COUNTY BOROUGH COUNCILS, NATIONAL PARK AUTHORITIES AND  
FIRE AND RESCUE AUTHORITIES**

**Consultation Period 26 October – 21 December 2007**

Those Consulted:-

Leaders, Chief Executives and Monitoring Officers of County and County  
Borough Councils  
Leader and Director of the Welsh Local Government Association (WLGA)  
Chairs and Chief Executives of National Park Authorities,  
Chairs and Clerks to Fire and Rescue Authorities  
Chair and Chief Executive of One Voice Wales  
Clerks to Police Authorities  
Wales Audit Office  
Public Services Ombudsman Wales  
Society of Local Authority Chief Executives  
Society of Welsh Treasurers  
Secretary to Police Authorities of Wales  
Welsh Association of National Park Authorities  
Wales Council for Voluntary Action  
Chairs of Standards Committees in local authorities  
Assembly Members  
Political Parties.

19 Responses Received From:-

- 12 County and County Borough Councils:-  
Bridgend CBC - Andrea McMillan, Member Services Officer  
Caerphilly CBC - Ian Medlicott, Monitoring Officer/Corporate Solicitor  
Carmarthenshire CC - P J Grafton, Head of Law and Administration  
Ceredigion CBC - Denfer Morgan, Chief Administration Officer  
Conwy CBC - Ken Finch, Corporate Director - Resources  
Denbighshire CC – Ian Hearle, County Clerk  
Flintshire C C – Peter Evans, Assistant Director (Democratic Services)  
Gwynedd - Dilys Phillips, Head of Administration and Public Protection  
Neath Port Talbot CBC - Peter Moran, Head of Democratic Services  
Newport City Council - Joyce Steven, Head of Finance  
Powys CC - Geoffrey Petty, Head of Finance, Corporate Property and  
Procurement  
Wrexham CBC - Lynne Tharme, Payroll Manager
- WLGA - Colin Everett, Head of Improvement
- Fire and Rescue Authorities

North Wales - Ian Miller, Clerk

South Wales - Sally Murton, Solicitor & Director Legal Admin & ICT

- National Park Authorities  
Brecon Beacons - Lynne Coughlan, Solicitor to Authority  
Pembrokeshire Coast - Nic Wheeler, Chief Executive  
Snowdonia - Iwan Jones, Head of Corporate and Legal Services
- A.N.Other (Has requested their response be treated in confidence)

**Additional “mini” Consultation 7 February – 22 February 2007 with Clerks to Fire and Rescue Authorities concerning following provisions which were not included in the draft regulations which issued for consultation October to December 2007, but which were referred to in the letter of consultation:-**

- Specifying a time-limit for receipts of claims for travel and subsistence and the new co-optees’ allowance; and
- Extending the publicity requirement in terms of the payments of allowances made to include travel and subsistence and co-optees’ allowance.

Joint response received from Sally Murton, Monitoring Officer with South Wales Fire and Rescue Service – In agreement with the proposals.

## **SUMMARY OF RESPONSES TO CONSULTATION EXERCISE AND ASSEMBLY RESPONSE**

### **1. Role of Independent Remuneration Panel**

(a) 10 Responses (7 local authorities, 1 Fire and Rescue Authority, 1 National Park Authority (NPA) and A.N.Other)

- All welcomed establishment of Panel.
- Some concern expressed that Panel’s remit would allow it to use different indices for uprating allowances for different councils – respondents that the same index should be applied to same type of allowances across all councils.
- Some concern also expressed that the Panel would be able to prescribe different maximum figures for different authorities – respondents believe that this should only relate to Special Responsibility Allowance (SRA), where there might be some distinction related to population size of la.
- A.N.Other - rather than specifying a list of posts that may attract SRA, Panel should be allowed to develop a more flexible approach to allow for local discretion.
- 

### **(b) Assembly’s Response**



The policy intention is to maximise the Panel's flexibility, within statutory requirements. This would enable the Panel, should it be so minded, to prescribe different maximum amounts of allowances for different authorities as well as different uprating indices for different authorities.

(c) Action

The Regulations to remain as drafted

**2. Withholding and Recovery of Allowances**

(a) 6 Responses (5 local authorities and A.N.Other)

- Las support
- A.N.Other - query whether statute allows for recovery of allowances.

(b) Assembly's Response

Assembly lawyers are satisfied that sections 18(4)(c) of the Local Government and Housing Act 1989 and section 105 of the Local Government Act 2000 enable provisions to be included in the regulations which allow for an authority to recover allowances already paid. Similar provisions are contained in the comparable England regulations "The Local Authorities (Members' Allowances) (England) Regulations 2003 SI No.1021.

(c) Action

The Regulations to remain as drafted

**3. Consolidation of Regulations**

(a) 4 Response (3 local authorities and A.N.Other)

- Support

(b) Action

The Regulations to remain as drafted

**4. Sharing of Deputy Leader's SRA**

(a) 5 Responses (4 local authorities and A.N.Other)

- Local authorities support
- A.N.Other – provision won't be required if regulations were more flexible

(b) Action

The Regulations to remain as drafted

**5. Increasing Maximum Level of SRA for Chairs/Vice-Chairs of Licensing Committees to that of Chairs/Vice-Chairs of Scrutiny and Planning Committees**

(a) 7 Responses (6 local authorities and A.N.Other)

- Local authorities support
- A.N.Other – provision won't be required if regulations were more flexible

(b) Action

The Regulations to remain as drafted

**6. Payment of Co-optees' Allowance**

(a) 6 Responses (4 local authorities, 1 Fire and Rescue Authority and

- A.N.Other)
  - All support
- (b) Action  
The Regulations to remain as drafted

## **7. Travel and Subsistence**

- (a) 13 Responses (10 local authorities, 2 NPAs and A.N.Other)
  - Majority support Panel prescribing maximum levels. One local authority and one NPA believe this should be a matter for the individual authority.
  - Whilst one local authority would welcome lump sum payments the rest favoured requirement for receipts to be provided, as exists under the current regulations. Several local authorities pointed out that reimbursement without production of receipts, or even payment of single lump sum, could give rise to tax issues.
  - A.N.Other - Power of Panel to determine maximum rates payable, and on what criteria they are paid out is sensible. But it should be left to local choice as to whether travel expenses should remain as claimable or be made as lump sum payments.

- (b) Assembly Response

The majority of responses favour continuation of the current arrangements whereby receipts are required.

- (c) Action

The draft regulations have been amended to include provision which replicates Regulation 15(3) of the existing regulations (The Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002).

## **8. Care Allowance – Removal of Current Restriction For Members in Receipt of a SRA of £15,000+**

- (a) 7 Responses (6 local authorities and A.N.Other)
  - Local authorities – support. One local authority queried whether the regulations, as drafted, allowed for removal of this restriction to come into force when the regulations are made.
  - Panel should be allowed flexible approach to carers' allowance

- (b) Assembly Response

The Regulations as drafted already provide for the restriction to be removed as soon as the regulations come into force.

- (c) Action

The Regulations to remain as drafted.

## **9(i) Time-limit for Receipt of Claims for Travel and Subsistence Allowance**

- (a) 7 Responses - 6 local authorities and combined response from the 3 Fire and Rescue Authorities.

- Support

- (b) Action

The Regulations to remain as drafted (but with the missing provision added in respect of Fire and Rescue Authorities).

### **9(ii) Time-limit for Receipt of Claims for Co-optees' Allowance**

(a) 6 Responses – 5 local authorities and combined response from the 3 Fire and Rescue Authorities.

- Two local authorities opposed to inclusion of time-limit requirement in regulations; one of view that this should be a matter for local choice, whilst other considered that this should be an annual payment.

(b) Assembly Response

In common with other allowances, it would appear reasonable for this allowance to be made as a payment, rather than being one which has to be claimed on each occasion by a member. As such the time-limit provision is no longer required.

(c) Action

This particular provision has been removed from the Regulations.

### **10. Extending Publicity Requirement of Allowances to Include Travel and Subsistence and Co-optees' Allowance**

(a) 6 Responses – 5 local authorities plus combined response from the three Fire and Rescue Authorities

- Fire and Rescue Authorities support. 4 local authorities in support with one of view that this should be a matter for local choice.

(b) Assembly Response

The current 2002 Regulations require authorities to publish the total amounts payable to members in respect of Basic allowance, SRA, and care allowance (and in relation to NPAs, the publication of sums of Attendance Allowance paid). This requirement is replicated in the draft regulations and, in the spirit of open government, is extended to include travel and subsistence and co-optees' allowance for members of county and county borough councils, NPAs and Fire and Rescue Authorities.

(c) Action

The Regulations to remain as drafted (but with the missing provisions added in respect of Fire and Rescue Authorities).

### **11. Pensions**

(a) 3 Responses – all local authorities

- 2 local authorities in support of the Panel being able to make recommendations as to which members of an authority are to be

entitled to join the Local Government Pension Scheme. One local authority opposed to the Panel having power to make different recommendations to different authorities.

(b) Assembly Response

These provisions replicate those in The Local Authorities (Allowances for Members of County and County Borough Councils) (Pensions) (Wales) Regulations 2003.

(c) Action

The regulations to remain as drafted

**12. Coming into Force Date**

(a) 8 Responses (7 local authorities and 1 NPA)

- 2 local authorities support date being linked to 2008 local government elections
- 2 local authorities support date being linked to start of financial year
- 1 local authority – should be asap
- 1 local authority – 1 October 2008
- Fire and Rescue Authority – content with timetable proposed in draft regulations

(b) Assembly Response

Two coming into force dates are required as some of the new provisions in the regulations can be introduced straightaway (eg increasing maximum level of SRA for Chairs/Vice-Chairs of Licensing Committees), whilst others (eg the introduction of the co-optee allowance) are dependent on the Independent Remuneration Panel setting maximum levels to be payable.

(c) Action

The regulations will come into force in two stages:-

(i) **1 June 2007** – main provisions coming into force at this time include establishing the Independent Remuneration Panel, requiring it to meet and produce reports; SRA increase for Chairs/Vice-Chairs of Licensing Committees; withholding and recovery of allowances of suspended members and the introduction of a “carers” allowance for members of NPAs.

(ii) (circa) **30 November 2008** (ultimately dependent upon when the Panel produces its initial report) – Requiring local authorities to establish new schemes of allowances, based on the maximum levels set by the Panel in their “initial” report, introduction of co-optees’ allowance (see Paragraph no 17 below) and, indirectly, requiring National Park Authorities and Fire and Rescue Authorities to have regard to the Panel’s determinations when setting new levels of allowances.

## **Additional Comments Made By Respondents**

### **13. Dates for Panel's First Meeting and Production of Report**

(a) One local authority has commented that given the Panel must produce their first report by 31 December 2007, the date for the Panel's first meeting should be held before then – say 30 September 2007.

#### **(b) Assembly Response**

The draft Regulations which issued for consultation require the Panel to meet before 31 December 2007 (or such later date as the National Assembly for Wales may agree, although post-May 2007 this will amount to a Welsh Minister function) and produce their "initial" report before 31 December 2007 (or such later date as the National Assembly for Wales may agree). The provisions in the Government of Wales Act 2006, which will result in the separation of powers between the Welsh Assembly Government and the National Assembly for Wales, and which come into force in May 2007 post election, necessitate changes in the way Ministers will make public appointments. As a result the appointment process for recruiting the Panel members cannot commence until May 2007. Because of the procedures to be followed in this recruitment process it is unlikely that the members will be appointed much before the end of 2007. The "initial" report prepared by the Panel will be their most comprehensive report, on which all future "annual" and "supplementary" reports will be based. Accordingly the Panel may take in the region of 6 months to gather information, consider representations and then produce this report.

#### **(c) Action**

The Regulations have been amended to require the first meeting of the Panel to be within 6 weeks of the members' appointment (or such later date as the National Assembly for Wales for agree, again this will be a Welsh Minister function after May 2007) – estimated as **January 2008**. The date for the publication of the "initial" report would be six months later, by **31 July 2008** (or such later date as the National Assembly for Wales may agree, to be a Welsh Minister function as above). There is of course nothing preventing the Panel producing their report at an earlier date. Authorities would then be required to have prepared their new schemes of allowances by **30 November 2008** (ie four months after the publication of the Panel's "initial" report.)

### **14. Adjustment of Allowances**

(a) One local authority queried whether the drafting of Regulation 10(3) & (4) allows for adjustments to be agreed at any point during the financial year and backdated to the beginning of the financial year.

#### **(b) Assembly Response**

This is the policy intention of the Regulations, and is the position under the current 2002 Regulations. Assembly lawyers have revisited these provisions. They have confirmed that these provisions allow for allowances which form part of a scheme of allowances (that is Basic Allowance, SRA and care allowance) to be backdated to the start of the financial year. However, the draft of the Regulations which issued for consultation did not provide for the backdating of increases for travel and subsistence and also the new co-

optees' allowance. Whilst it is not the policy intention for travel and subsistence allowances to be back-dated, it is the policy intention to allow for changes in the level co-optees' expenses to be back-dated.

(c) Action

Provision has now been included in the Regulations which would enable an authority to back-date an increase in the co-optees' allowance to the start of the financial year.

### **15. Voting By Panel and Quorum**

(a) One local authority queried the drafting of Regulation 27(2), which in the case of an equality of votes, enables the Chair to have a second, casting vote. They also queried that, given that the minimum size of the panel is 3 members, of whom 2 would be the chair or vice-chair, whether the quorum should be 2.

(b) Assembly Response

For Regulation 27(2) to be redrafted as suggested by the local authority. To also redraft Regulation 24(1) which relates to the size of the Panel so that it makes clear that the Panel should consist of 5 persons, which would include the chairperson and vice-chairperson, with a quorum of 3; as originally drafted the regulations allowed the Panel to consist of between 3 - 5 members in total.

(c) Action

The Regulations have been amended accordingly.

### **16 Compatibility With Freedom of Information Act 2000**

(a) One local authority queried whether Regulation 36(2) as drafted (concerned with the requirement of the Assembly to send a copy of the Panel's report to authorities) contravenes the requirements of the Freedom of Information Act.

(b) Assembly Response

Assembly lawyers have revised this provision and also draft Regulation 36(3). They accept that these provisions, as drafted, could be construed as cutting across the Freedom of Information Act 2000 (although this was not the intention).

(c) Action

These provisions have been redrafted to ensure compatibility with the requirements of the Freedom of Information Act 2000.

### **17. Care Allowance for Members of National Park Authorities**

(a) One NPA expressed their disappointment that the proposed regulations do not provide for a care allowance for their members.

(b) Assembly Response

Section 100(d) of the Local Government Act 2000 enables “the reimbursement of expenses incurred by members of such relevant authorities as may be prescribed”. Although this does not amount to an “allowance” it would enable the reimbursement of monies expended on costs of arranging for care.

(c) Action

Provisions have been included in the Regulations giving NPAs the discretion to reimburse a member for expenses incurred for the care of children or dependants. Such provision would come into force at the first coming into force date of the regulations – 1 June 2007. NPA would be required to publicise each year the amounts paid to each member.

## **ADDITIONAL CHANGES MADE TO THE REGULATIONS**

- Provisions have been included in the Regulations which would also require the National Assembly for Wales to send copies of relevant Panel reports to National Park Authorities and Fire and Rescue Authorities.
- Provisions have been included which would allow for National Park Authorities to recover co-optees' allowance from suspended members (this is agreed policy but owing to an oversight was not included in the draft of the regulations which issued for consultation).
- Provisions have been included which require county and county borough councils, NPAs and Fire and Rescue Authorities to publish each year the amounts paid to their members in respect of travel and subsistence and co-optees' allowance; the former to come into force on 1 June 2007 and the latter on (circa) 30 November 2008. Provisions also require NPAs to publish the amounts of the reimbursement of care expenses paid each year to their members, coming into force 1 June 2007 (thus bringing such allowances in line with Basic, SRA and the local authority carer's allowance which are already subject to a publicity requirement).
- Provisions have been included which enable, for the period (circa) 30 November 2008 – 31 March 2009, the maximum amount of allowances payable by local authorities to be proportionate to the maximum amount of allowances applicable (in light of the Panel's report) that would otherwise have operated if the new schemes had been in operation for the full financial year 2008/09.



## ANNEX C

### EXTRACT FROM DRAFT MINUTES OF 26<sup>TH</sup> MEETING OF THE LOCAL GOVERNMENT PARTNERSHIP COUNCIL HELD ON THURSDAY 16 NOVEMBER 2006 AT THE VALE OF GLAMORGAN COUNCIL, DOCK OFFICES, BARRY

#### REVISED AGENDA ITEM 9: COUNCILLORS' ALLOWANCES [PC26(4)]

9.1 Introducing the paper, Mrs Essex said that the key proposals included the establishment of an Independent Remuneration Panel for Wales to prescribe the responsibilities or duties that may attract a special responsibility allowance and the maximum level of all allowances. The proposals also included the introduction of a co-optees' allowance for non-elected members. Following consultation, Local Government and Public Services Committee would consider the draft regulations in the New Year.

9.2 Dave Brown said that the WLGA intended to assess the cost implications for individual local authorities, to establish whether there were any distributional issues that needed to be addressed.

9.3 Mike German AM asked how it would be ensured that the members appointed to the panel were properly independent. Frank Cuthbert advised that the appointments would be made through the public appointment process. The regulations, if approved, would debar certain persons from sitting on the panel, such as sitting councillors and other elected politicians and anyone who would be disqualified from being a councillor.

9.4 Cllr Jeff James welcomed the proposals, which he suggested would be acceptable to members. The WLGA had yet to discuss the proposals in depth and suggested that the association should take up the matter at its next Council. **[Action: WLGA Secretariat]**

9.5 Steve Thomas suggested that there was a case for a bringing together of the current arrangements for determining the remuneration of councillors, Assembly Members and Members of Parliament. He said that local government would be content with the public appointment process for the Independent Remuneration Panel for Wales, which had been seen to be a rigorous and effective approach in the past. He suggested that the co-optees allowance would be better set at a particular level, rather than a maximum, to provide consistency where authorities chose to pay it. Mrs Essex pointed out that remuneration for Assembly Members and Members of Parliament was salary rather than allowance based.

9.6 Cllr Mair Stephens suggested that there should be an allowance for community and town councillors in recognition of their increasing role within

local communities, particularly as proposals put forward by the Beecham Review for increased local scrutiny are introduced.

9.7 Frank Cuthbert confirmed that the closing date for consultation responses was 21 December.

# NATIONAL ASSEMBLY FOR WALES

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## STATUTORY INSTRUMENTS

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**2007 No. (W. )**

### **LOCAL GOVERNMENT, WALES**

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

##### **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.

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 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.

**2007 No. (W. )**

**LOCAL GOVERNMENT, WALES**

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

*Made*

*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,
- 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.

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<sup>(1)</sup> 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.

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

<sup>(3)</sup> 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.



## 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;

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

“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,

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<sup>(4)</sup> 1972 c.70.

<sup>(5)</sup> S.I. 2002/1895 (W.196).

<sup>(6)</sup> S.I. 2007/397 (W. 43).

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<sup>(7)</sup>;

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

“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<sup>(9)</sup>;

“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—

- (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.

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<sup>(7)</sup> 2004 c.21.

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

<sup>(9)</sup> 1995 c.25.

## 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 be to payment of such proportion of that allowance as the number of days during which that member has such special responsibilities bears to the number of days in that year; and

(b) where a scheme is amended as mentioned in paragraph (2) of regulation 6 and a member does not have throughout the whole of any period mentioned in sub-paragraph (a) 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

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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).

(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.

#### 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).

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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).

(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.

(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<sup>(12)</sup>.

(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

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<sup>(12)</sup> 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.

- (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<sup>(13)</sup> 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<sup>(14)</sup>.

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<sup>(13)</sup> 1978 c.30.

<sup>(14)</sup> 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.

(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**).

Date

The Presiding Officer of the National Assembly

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

(**16**) 1998 c.38.