WELSH STATUTORY INSTRUMENTS

2007 No. 1086 (W.115)

LOCAL GOVERNMENT, WALES

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

Made - - - - 28 March 2007

Coming into force in accordance with regulation 1(1)

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

(**1**) 1989 c. 42; section 18 was amended by the Police and Magistrates' Courts Act 1994 (c. 29), Schedule 4, paragraph 37; the Education Act 1996 (c. 56), Schedule 37, paragraph 97; and the Local Government Act 2000 (c. 22), section 99.

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

(**3**) 2000 c. 22; by virtue of section 106(1) of the Local Government Act 2000, section 105 has effect, in its application to Wales, as if for any reference to the Secretary of State there were substituted a reference to the National Assembly for Wales.

on 1 June 2007; and

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

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations —

"the 1972 Act" ("*Deddf 1972*") means the Local Government Act 1972(**4**);

"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(**5**);

"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;

(**4**) 1972 c. 70.
(**5**) S.I. 2002/1895 (W.196).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"year" ("*blwyddyn*") means—

(**6**) S.I. 2007/397 (W. 43).
(**7**) 2004 c. 21.
(**8**) S.I. 2004/2555 (W.227) as amended by S.I. 2005/2929 (W.214).
(**9**) 1995 c. 25.

(a) for the purposes of regulation 28(2), a period of twelve months;

(b) for the purposes of regulation 29(1), any period of twelve months ending on 31 December; and

(c) for all other purposes —

(i) the period beginning on the date of the coming into force of these Regulations in accordance with regulation 1(1)(b) and ending on 31 March 2009; and

(ii) any period of 12 months ending on 31 March thereafter.

Prescribed relevant authorities

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

PART 2

Schemes for Members' Allowances

Interpretation

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

Allowances Schemes

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

(2) When a scheme is revoked in accordance with regulation 6(1), an authority must before the revocation takes effect make a further scheme for the period beginning with the date on which the revocation takes effect.

Amendment of Schemes

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

(2) Where an amendment is to be made which affects an allowance payable for the year in which the amendment is made, the scheme may provide for the entitlement to such allowance to apply with effect from the beginning of the year in which the amendment is made and if the amendment affects basic allowance or special responsibility allowance in relation to each of the periods —

(a) beginning with the first day of the year and ending with the day before that on which the first amendment in that year takes effect, and

(b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the last day of the year,

the entitlement to such an allowance is to payment of such proportion of the amount of the allowance under the scheme as it has effect during the relevant period as the number of days in the period bears to the number of days in the year.

Basic allowances

7.—(1) A scheme made under this Part must provide for the payment for each year to which the scheme relates of an allowance ("basic allowance") to each member of the authority who is a councillor and the amount of such allowance must be the same for each such member.

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

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

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

(3) A scheme must provide that, where the term of office of a member begins or ends otherwise than at the beginning or end of a year, the entitlement of that member is to be to payment of such proportion of the basic allowance as the number of days during which the member's term of office as a councillor subsists during that year bears to the number of days in that year.

(4) Where a scheme is amended as mentioned in paragraph (2) of regulation 6 and the term of office of a member who is a councillor does not subsist throughout the whole of a period mentioned in sub-paragraph (a) or (b) of that paragraph, the scheme must provide that the entitlement of any such member under this regulation is to payment of such proportion of the basic allowance applicable to each such period as represents the number of days the member's term in office subsists in that period as a proportion of the number of days in the period.

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

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

Special responsibility allowances

8.—(1) Subject to paragraphs (2) to (5), a scheme made under this Part may provide for the payment for each year to which the scheme relates of an allowance ("special responsibility allowance") to such members of the authority who are councillors as have such special responsibilities in relation to that authority as are —

(a) prescribed by the Panel for that authority in

(i) the initial report; or

(ii) any supplementary report; and

(b) specified in the scheme.

(2) A special responsibility allowance may not be paid to more than fifty per cent of the members of the authority (calculated using the total number of seats on the authority and by rounding up the number of members to the next whole number when in calculating the percentage the number is not a whole number).

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

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