WELSH STATUTORY INSTRUMENTS

2004 No. 2555 (W.227)

LOCAL GOVERNMENT, WALES

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

Made - - - -	*28 September 2004*
Coming into force - -	*29 September 2004*

The National Assembly for Wales makes the following Regulations in exercise of the powers given to the Secretary of State by section 18(1), (3) and (4) of the Local Government and Housing Act 1989(**1**) which are now vested in the National Assembly for Wales so far as exercisable in Wales(**2**) and the powers given to it by sections 100(1) and (5) and 105 of the Local Government Act 2000(**3**) having carried out such consultation as is required by section 100(5):

PART 1

General

Name, commencement and application

1.—(1) The name of these Regulations is the Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004 and they shall come into force on 29 September 2004.

(2) These regulations apply in relation to fire authorities in Wales only.

Interpretation

2. In these Regulations —

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

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

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

(**1**) 1989 c. 42; section 18 is amended by section 99 of the Local Government Act 2000. There are other amendments to section 18 which are not relevant to these regulations.
(**2**) *See* the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).
(**3**) 2000 c. 22.
(**4**) 1972 c. 70.

"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**);

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

(a) attendance at a meeting of the fire authority or of any committee of the fire authority or of any body to which the fire authority makes appointments or nominations or of any committee of such a body;

(b) attendance at a meeting of any association of which the fire authority is a member;

(c) attendance at any other meeting the holding of which is authorised by the fire authority or by a committee of the fire authority or by a joint committee of the fire authority and one or more other fire authorities or any county or county borough council or National Park authority;

(d) a duty undertaken in pursuance of a standing order which requires a member or members to be present when tender documents are opened;

(e) a duty undertaken in connection with the discharge of any function of the fire authority which empowers or requires the fire authority to inspect or authorise the inspection of premises;

(f) attendance at any training or developmental event approved by the fire authority; and

(g) any other duty approved by the fire authority, or any other duty of a class so approved, undertaken for the purpose of, or in connection with, the discharge of the functions of the fire authority or of any of its committees;

"chairperson" ("*cadeirydd*") means a member elected by a fire authority as the chairperson of that fire authority;

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

"constituent authority" ("*awdurdod cyfansoddol*") means a county council or county borough council falling within the area of a fire authority;

"fire authority" ("*awdurdod tân*") means —

(a) a fire authority constituted by a combination scheme under the Fire Services Act 1947(**6**); and

(b) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(**7**);

"fire authority allowance" ("*lwfans awdurdod tân*") means a basic allowance payable by a fire authority under section 18(1)(a) of the 1989 Act;

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

"fire authority vice-chairperson's allowance" ("*lwfans is-gadeirydd awdurdod tân*") means a special responsibility allowance payable by a fire authority under section 18(1)(c) of the1989 Act;

"member" ("*aelod*") means, except in respect of paragraph (b) of the definition of "approved duty" ("*dyletswydd a gymeradwywyd*") and paragraph (2) of regulation 15, a member of a fire authority appointed as such by a constituent authority;

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

(**5**) S.I. 2002/1895 (W.196).
(**6**) 1947 c. 41.
(**7**) 2004 c. 21.

"vice-chairperson" ("*is-gadeirydd*") means a member elected by a fire authority as the vice-chairperson of that authority; and

"year" ("*blwyddyn*") means —

(a) the period beginning on the date of the coming into force of these Regulations and ending 31 March 2005; and

(b) any period of 12 months ending on 31 March in any year after 2005.

Prescribed relevant authorities

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

PART 2

Schemes for Members' Allowances

Interpretation

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

Allowance schemes

5.—(1) A fire authority shall —

(a) make a scheme in accordance with these Regulations in respect of each year for the payment of allowances described in this Part; and

(b) pay such allowances in accordance with such a scheme.

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

Amendment of schemes

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

(2) Subject to paragraph (3), a scheme made under this Part may make provision, in respect of the year ending 31 March 2006 and subsequent years, for an annual adjustment of allowances.

(3) An annual adjustment to be made by a fire authority shall —

(a) in the case of fire authority allowance, not exceed the amount which equals the average of all (if any) annual adjustments made by its constituent authorities to basic allowance(**8**) payable by those authorities in that year under the 2002 Regulations; and

(b) in the case of fire authority chairperson's allowance and fire authority vice-chairperson's allowance, not exceed the amount which equals the average of all (if any) annual adjustments made by its constituent authorities to special responsibility allowance(**9**) payable by those authorities in that year under the 2002 Regulations.

(**8**) *See* regulation 7 of S.I. 2002/1895 (W.196).
(**9**) *See* regulation 8 of S.I. 2002/1895 (W.196).

(4) Where an amendment is to be made to a scheme which affects an allowance payable for the year in which the amendment is made, the scheme may provide for the entitlement to such allowance as amended to apply with effect from the beginning of the year in which the amendment is made.

(5) Where a scheme does not provide for the entitlement to an allowance as amended to apply with effect from the beginning of a year as described in paragraph (4) —

(a) the amendment shall be effective from the date of amendment; and

(b) entitlement to such allowance as amended shall be to payment of such proportion of that allowance as the number of days on which that allowance has effect during that year bears to the number of days in that year.

Fire authority allowances

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

(2) For the purposes of the year beginning on the date of the coming into force of these Regulations and ending on 31 March 2005, the amount of fire authority allowance payable to each member under the scheme shall not exceed £505.

(3) Subject to paragraphs (2), (3)(a), (4) and (5) of regulation 6, the amount of fire authority allowance payable to each member under the scheme for the year ending 31 March 2006 shall not exceed £1,002.

(4) For the purposes of years commencing on or after 1 April 2006, the amount of fire authority allowance payable to each member under the scheme shall (subject to paragraphs (2), (3)(a), (4) and (5) of regulation 6) not exceed the amount of that allowance payable in the previous year.

(5) The scheme shall provide that where the term of office of a member comprises part only of a year, the entitlement of that member shall be to payment of such proportion of the fire authority allowance as the number of days on which that office is held during that year bears to the number of days in that year.

(6) The scheme shall specify that where a member is suspended or partially suspended(**10**) from that member's responsibilities or duties as member in accordance with Part III of the 2000 Act or regulations made under that Part(**11**), the part of fire authority allowance payable to that member in respect of the period for which that member is suspended or partially suspended shall be withheld by the fire authority.

(7) A scheme made under this Part shall provide that no more than one fire authority allowance shall be payable to a member.

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

8.—(1) A scheme made under this Part shall provide for the payment for each year to which the scheme relates of a fire authority chairperson's allowance and a fire authority vice-chairperson's allowance.

(2) For the purposes of the year beginning on the date of the coming into force of these Regulations and ending on 31 March 2005, the amount of —

(a) a fire authority chairperson's allowance payable to a chairperson under the scheme shall not exceed £4,591; and

(**10**) *See* section 83(7) to (10) of the Local Government Act 2000.
(**11**) *See*, in particular, S.I. 2001/2287 (W.171).

(b) a fire authority vice-chairperson's allowance payable to a vice-chairperson under the scheme shall not exceed £3,529.

(3) Subject to paragraphs (2), (3)(b), (4) and (5) of regulation 6, the amount of —

(a) fire authority chairperson's allowance payable to a chairperson under the scheme for the year ending 31 March 2006 shall not exceed £9,108; and

(b) fire authority vice-chairperson's allowance payable to a vice-chairperson under the scheme for the year ending 31 March 2006 shall not exceed £7,000.

(4) For the purposes of years commencing on or after 1 April 2006, the amount of —

(a) fire authority chairperson's allowance payable to a chairperson under the scheme shall (subject to paragraphs (2), (3)(b), (4) and (5) of regulation 6) not exceed the amount of that allowance payable in the previous year; and

(b) fire authority vice-chairperson's allowance payable to a vice-chairperson under the scheme shall (subject to paragraphs (2), (3)(b), (4) and (5) of regulation 6) not exceed the amount of that allowance payable in the previous year.

(5) The scheme shall provide that where the term of office of a member as chairperson (or vice-chairperson) comprises part only of a year, the entitlement of that member shall be to payment of such proportion of the fire authority chairperson's allowance (or fire authority vice-chairperson's 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) The scheme shall specify that where a member is suspended or partially suspended from that member's responsibilities or duties as chairperson or vice-chairperson in accordance with Part III of the 2000 Act or regulations made under that Part, the part of fire authority chairperson's allowance or fire authority vice-chairperson's allowance payable to that member in respect of the period for which that member is suspended or partially suspended shall be withheld by the fire authority.

PART 3

Schemes-Further Provision

Amount of allowances

9. A scheme under Part 2 shall specify in respect of any year to which it relates —

(a) the amount of the fire authority allowance; and

(b) the amount of the fire authority chairperson's allowance and the fire authority vice-chairperson's allowance.

Recovery of allowances

10. A scheme may provide that where payment of an allowance under Part 2 of these Regulations 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, chairperson or vice-chairperson in accordance with Part III of the 2000 Act or regulations made under that Part;

(b) ceases to be a member of the fire authority; or

(c) is in any way not entitled to receive the allowance in respect of that period,