WELSH STATUTORY INSTRUMENTS

# 2002 No. 1895 (W.196)

# LOCAL GOVERNMENT, WALES

## The Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002

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| *Made - - - -* | *18th July 2002* |
| *Coming into force - -* | *9th August 2002* |

The National Assembly for Wales makes the following Regulations in exercise of the powers given to the Secretary of State by section 18(1), (2), (2A), (3), (3A) 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 105 of the Local Government Act 2000(**3**):

## PART I

## General

### Name, commencement and application

**1.**—(1) The name of these Regulations is the Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002 and they shall come into force on 9th August 2002.

(2) These regulations apply to Wales only.

### Interpretation

**2.** In these Regulations—

"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;

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

(**1**) 1989 c. 42. Section 18(3A) was inserted by section 99(3), (7) of the Local Government Act 2000 (c. 22).
(**2**) *See* the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).
(**3**) 2000 c. 22.

(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, a county borough council or a National Park authority;

"board" ("*bwrdd*") means the committee of a local authority established under regulation 4(1)(a) of the Local Authorities (Alternative Arrangements)(Wales) Regulations 2001(**4**);

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

"controlling group" ("*grwp rheoli*") means a political group:

(a) in an authority operating executive arrangements:

(i) where those arrangements take the form of a leader and cabinet executive;

(ii) with a mayor and cabinet executive; or

(iii) with a mayor and council manager; or

(b) in an authority operating alternative arrangements;

where any of its members form part of an executive or board as in a) or b) above.

"excluded duty" ("*dyletswydd a eithrir*") means an approved duty in respect of which a member of an authority who is a councillor receives remuneration otherwise than under a scheme made under Part II of these Regulations;

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

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

"largest opposition group" ("*grwp gwrthbleidiol mwyaf*") means a political group other than a controlling group which has a greater number of members than any other political group in the authority;

"member" ("*aelod*") includes a member of a committee or sub-committee;

(**4**) S.I. 2001/2284 (W.173)

"other political group" ("*grwp gwleidyddol arall*") means a political group other than a controlling group or the largest opposition group (if any) which comprises not less than ten per cent of the members of that authority;

"overview and scrutiny committee" ("*pwyllgor trasolygu a chraffu*") means a committee of the authority which has the powers set out in sections 21(2) and (3) or 32 (1) of the 2000 Act;

"the 1972 Act" ("*Deddf 1972*") means the Local Government Act 1972(**5**);

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

"year" ("*blwyddyn*") means the twelve months ending with 31st March.

**Prescribed relevant authorities**

**3.** County councils, county borough councils and National Park authorities are prescribed as relevant authorities for the purposes of section 100(1)(b) of the 2000 Act.

# PART II

## Schemes for Councillors' Allowances

**Interpretation**

**4.**—(1) Subject to paragraph (2)(b), references in this Part to a member of an authority who is a councillor shall be construed in relation to a National Park authority as references to a member of that authority appointed by a county or county borough council or by the National Assembly for Wales unless the context requires otherwise.

(2) For the purposes of this Part—

(a) members of an authority are to be treated as divided into political groups if they are so treated for the purposes of section 15 (political balance on committees etc) of the Local Government and Housing Act 1989; and

(b) the term of office of a member of an authority (other than a National Park authority) who is a councillor shall begin on the date on which that member makes a declaration of acceptance of that office under section 83(1) of the 1972 Act.

**Allowance schemes**

**5.**—(1) Each authority shall make a scheme in accordance with these Regulations for the payment of allowances in respect of the current year and subsequent years.

(2) When a scheme is revoked in accordance with regulation 6(1), an 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) 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,

(**5**) 1972 c. 70

(a) if the amendment affects such an allowance as is mentioned in regulation 7 or 8, in relation to each of the periods—

(i) 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

(ii) 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 shall be 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; or

(b) if the amendment affects such an allowance as is mentioned in regulation 9, the entitlement to such an allowance shall be to payment of the amount of the allowance under the scheme as it has effect when the duty is carried out.

**Basic allowances**

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

(2) The scheme shall 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 shall 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.

(3) 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)(i) or (ii) of that paragraph, the scheme shall provide that the entitlement of any such member under this regulation shall be to payment of such proportion of the basic allowance referable to each such period as the number of days during which the member's term of office as a councillor subsists in that period bears to the number of days in the period.

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

**Special responsibility allowances**

**8.**—(1) Subject to paragraph (2), a scheme made under this Part may provide, in accordance with paragraph (3), 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 the authority as are specified in the scheme and are within one or more of the following categories—

(a) the elected mayor of an authority operating executive arrangements which take the form of a mayor and cabinet executive;

(b) the leader of an authority operating executive arrangements which take the form of a leader and cabinet executive and the elected mayor of an authority operating executive arrangements which take the form of a mayor and council manager executive;

(c) members of the cabinet of an authority operating executive arrangements which take the form of a leader and cabinet executive and the chair of the board of an authority operating alternative arrangements;

(d) members of the board of an authority operating alternative arrangements, chairs of overview and scrutiny committees and planning committees, leaders of the largest opposition group in an authority and chairs of National Park authorities;

(e) vice-chairs of overview and scrutiny committees, vice-chairs of planning committees, chairs of other committees, members of the cabinet of an authority operating executive arrangements which take the form of a mayor and cabinet executive and vice-chairs of National Park authorities;

(f) vice-chairs of committees other than overview and scrutiny committees and planning committees, leaders of any other political group in an authority and chairs and vice chairs of National Park authority committees; and

(g) such other activities in relation to the discharge of the authority's functions as have been approved in writing by the National Assembly for Wales.

(2) (a) 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).

(b) A special responsibility allowance ("the deputy's allowance") payable to a deputy leader of a cabinet in the case of executive arrangements and the vice chair of the board in the case of the 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 cabinet of an authority operating executive arrangements which take the form of a leader and cabinet executive or a member of a board of an authority operating alternative arrangements (excluding a leader of an authority operating executive arrangements or a chair of board of a council operating alternative arrangements) provided that the deputy's payment is made to not more than one person.

(3) Any scheme making such provision as is mentioned in paragraph (1) shall 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 shall 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)(i) or (ii) of that paragraph any such special responsibilities as entitle a member to a special responsibility allowance, that member's entitlement shall be to payment of such proportion of the allowance referable to each such period as the number of days in that period during which that member has such special responsibilities bears to the number of days in the period.

**Attendance allowances**

**9.**—(1) A scheme made under this Part by a National Park authority may provide for the payment to each member of the authority who is a councillor of an attendance allowance ("attendance allowance") in respect of an approved duty which is not an excluded duty and the time spent in travelling to and from the location at which the duty is performed.

(2) The amount of the attendance allowance shall be specified in the scheme and may vary according to the time of day and the duration of the duty but shall be the same for all members of the authority who are entitled to receive the allowance in respect of a duty of any description at the same time of day and of the same duration.