

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2004 No. (W.)

**LOCAL GOVERNMENT,
WALES**

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 18 of the Local Government and Housing Act 1989 provides power for the Secretary of State to authorise or require any “relevant authority” (which includes combined fire authorities) specified in the Regulations to make a scheme providing for the payment, to members of the authority, of:

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

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

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

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

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

Regulation 5 provides that where a scheme, made under these Regulations, is revoked an authority must ensure that a further scheme is in place to take effect from the date of any such revocation.

Regulation 6 provides that a scheme may be amended or revoked at any time and enables fire authorities, from the year commencing 1 April 2005 onwards, to make an annual adjustment to allowances payable under their schemes. The amount of an annual adjustment to a fire authority allowance is restricted to the average of any adjustments made by a fire authority's constituent councils to their basic allowances in that year. The amount of an annual adjustment to a fire authority chairperson's allowance or fire authority vice-chairperson's allowance is restricted to the average of any adjustments made by a fire authority's constituent councils to their special responsibility allowances in that year.

Regulation 7 requires a scheme to contain provisions relating to a fire authority allowance for all fire authority members. Only one fire authority allowance per member shall be payable under a scheme. Regulation 7 also prescribes the maximum amount of fire authority allowance for the year ending 31 March 2005 and provides for the maximum amount of that allowance in subsequent years. Under regulation 7, a fire authority is able to withhold the payment of a fire authority allowance from a member in circumstances where the member is suspended or partially suspended in accordance with Part III of the 2000 Act or regulations made under that Part.

Regulation 8 requires fire authorities to make provision for a fire authority chairperson's allowance and a fire authority vice-chairperson's allowance. The maximum amount of both those allowances is prescribed for the year ending 31 March 2005 and regulation 8 also provides for the maximum amount of those allowances in subsequent years. As with the "fire authority allowance", a fire authority may withhold the payment of fire authority chairperson's and fire authority vice-chairperson's allowances in certain circumstances.

Regulation 9 requires that a scheme under Part 2 shall specify the amount of the fire authority allowance and the fire authority chairperson's allowance and fire authority vice-chairperson's allowance.

Regulation 10 describes the circumstances in which a fire authority may recover allowances paid to a member of that authority under a scheme.

A scheme under Part 2 shall contain a provision to allow a member to forgo any part of their entitlement under the scheme by virtue of Regulation 11 and may, under Regulation 12, set out the times for payments of allowances to be made (which may be different for different allowances).

Regulation 13 provides discretion for a fire authority to pay a care allowance. Different amounts of care allowance are available to a chairperson, vice-chairperson and member who incurs expenses arranging for the care of children or dependants whilst undertaking fire authority duties. Regulation 13 prescribes the differing maximum amount of care allowance available to a chairperson, vice-chairperson and member during the year ending 31 March 2005 and provides for the maximum amount of care allowance payable to those offices in subsequent years. In certain circumstances, a fire authority may withhold a payment of care allowance from a member.

Regulation 14 entitles fire authorities to make an annual adjustment to the amount of care allowance available for a chairperson, vice-chairperson and member. The amount of an adjustment is limited.

Regulation 15 provides for payment of travel or subsistence allowance to members, at rates to be determined each year. Those rates are to be linked to rates payable to Members of the National Assembly for Wales in so far as they shall not exceed rates received by Assembly Members. Travel and subsistence claims (except claims relating to travel by private motor vehicle) are to be made on an "actual" basis, must be accompanied by relevant receipts for expenditure incurred and must additionally comply with any requirement or limitation determined by an authority. In certain circumstances, a fire authority may withhold payment of travel or subsistence allowance from a member.

Regulation 16 provides for the circumstances in which a fire authority may recover care, travel or subsistence allowances paid to a member of that authority.

Regulation 17 provides that claims by fire authority members in accordance with these Regulations shall be paid by a fire authority of which the claimant is a member. Regulation 17 also provides for all claims made for care allowance, travel allowance or subsistence allowance to be accompanied by a statement that the claimant has not and will not make any other claim in respect of the matter to which the claim relates.

Regulation 18 requires every fire authority to keep a record of any payments made in accordance with these Regulations or any scheme made under them, giving

details of the recipient and the nature of the payment. That information should be available for inspection (free of charge) by any local government elector in the area of any of the constituent authorities of a fire authority. Copies of the information may be obtained on payment of a reasonable fee to an authority.

In accordance with Regulation 19 any scheme made under these Regulations must be publicised in the authority's area as soon as practicable after it is made. As soon as practicable after the end of a year to which a scheme relates, each authority shall publish details of the total sum paid under the scheme to each member in respect of fire authority allowance, fire authority chairperson's allowance and fire authority vice-chairperson's allowance.

Regulation 19 also provides that as soon as practicable after the end of a year, each fire authority shall publish the details of the total sum paid to each member in respect of care allowance.

Regulation 20 disapplies sections 174 and 175 of the Local Government Act 1972 as respects fire authorities.

2004 No. (W.)

**LOCAL GOVERNMENT,
WALES**

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

Made [] 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.

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- (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.

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;

“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.

⁽⁴⁾ 1972 c.70.

⁽⁵⁾ S.I. 2002/1895 (W.196).

“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 the 1989 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;

“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.

(6) 1947 c.41.
(7) 2004 c.21.

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

⁽⁸⁾ See Regulation 7 of S.I. 2002/1895 (W.196).

constituent authorities to special responsibility allowance⁽⁹⁾ payable by those authorities in that year under the 2002 Regulations.

(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

⁽⁹⁾ See Regulation 8 of S.I. 2002/1895 (W.196).

⁽¹⁰⁾ See section 83(7) to (10) of the Local Government Act 2000.

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
- (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-

⁽¹¹⁾ See, in particular, S.I. 2001/2287 (W.171).

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,

the fire authority may require that such part of the allowance as relates to any such period be repaid to the authority (and such repayment may include the withholding by the fire authority of a future

instalment of the relevant allowance, in part or in whole, from the member).

Forgoing of allowance

11. A scheme under Part 2 shall provide that a member may, by notice in writing given to the proper officer of the fire authority, elect to forgo the whole or any part of that member's entitlement to an allowance under the scheme.

Claims and payments

12. A scheme under Part 2 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

Care allowances

13.—(1) Subject to paragraph (2), a fire authority may provide for the payment to a member of an allowance (“care allowance”) in respect of such expenses of arranging for the care of children or dependants as are necessarily incurred in the carrying out of that member’s duties as a member.

(2) In making provision under paragraph (1) a fire authority shall not provide for the payment of —

- (a) a care allowance to a member who is entitled to receive a fire authority chairperson’s allowance or a fire authority vice-chairperson’s allowance of an amount which exceeds the amount from time to time specified in writing by the National Assembly for Wales;
- (b) a care allowance in respect of any child over the age of fifteen years or dependant unless the member satisfies the fire authority that the child or dependant required supervision which has caused the member to incur expenses that were necessary in respect of the care of that child or dependant in the carrying out of that member’s duties as a member;
- (c) a care allowance to more than one member in relation to the care of the same child or dependant; or
- (d) more than one care allowance to any member 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) For the purposes of the year beginning on the date of the coming into force of these Regulations and ending on 31 March 2005 —

- (a) the amount of care allowance payable to a chairperson shall not exceed £678;
- (b) the amount of care allowance payable to a vice-chairperson shall not exceed £529; and
- (c) the amount of care allowance payable to a member shall not exceed £185.

(4) Subject to regulation 14, the amount of care allowance payable —

- (a) for the year ending 31 March 2006 to a chairperson shall not exceed £1,344;

- (b) for the year ending 31 March 2006 to a vice-chairperson shall not exceed £1,050; and
- (c) for the year ending 31 March 2006 to a member shall not exceed £366.

(5) For the purposes of years commencing on or after 1 April 2006, the amount of care allowance payable to a chairperson, vice-chairperson or member shall (subject to regulation 14) not exceed the amount of that allowance payable to that office in the previous year.

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

14.—(1) Subject to paragraph (2), a fire authority may provide in respect of the year ending 31 March 2006 and subsequent years, for an annual adjustment of care allowance.

(2) An annual adjustment of care allowance payable to a chairperson, vice-chairperson or member to be made by a fire authority shall not exceed the amount which equals the average of all (if any) annual adjustments made by its constituent authorities to care allowance⁽¹²⁾ payable by those authorities in that year under the 2002 Regulations.

(3) Where an adjustment to the amount of care allowance is to be made by a fire authority, that authority may provide for the entitlement to that allowance as adjusted to apply with effect from the beginning of the year in which the adjustment is made.

(4) Where a fire authority does not provide for the entitlement to care allowance as adjusted to apply with effect from the beginning of a year as described in paragraph (3) —

- (a) the adjustment shall be effective from the date of adjustment; and
- (b) entitlement to that care allowance as adjusted shall be to payment of such proportion of that allowance as the number of days on which

⁽¹²⁾ See Regulation 10 of S.I. 2002/1895 (W.196).

that allowance has effect during the year bears to the number of days in that year.

Travel and subsistence allowances

15.—(1) Subject to paragraph (2), a member shall be entitled to receive payments by way of travel allowance or subsistence allowance at rates determined for each year by the fire authority where expenditure on travel or subsistence is necessarily incurred by that member in the performance of an approved duty as a member.

(2) The rates of allowance determined for a year under paragraph (1) for travel by means of a private motor vehicle shall not exceed the rates of the equivalent allowances payable for that year to members of the National Assembly for Wales.

(3) Any claim for payment of travel and subsistence allowances under this Part (excluding claims for travel by means of a private motor vehicle) shall be accompanied by appropriate receipts proving actual expenditure and shall additionally comply with any requirement or limitation that an authority may determine.

(4) 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 2000 Act or regulations made under that Part, travel or subsistence 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.

Recovery of allowances

16. A fire 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, 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,

the fire authority may require that such part of the allowance as relates to any such period be repaid to the authority (and such repayment may include the withholding by the fire authority of a future instalment of the relevant allowance, in whole or in part, from the member).

PART 5

Administrative Arrangements

Payment and avoidance of duplication

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

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

Records of allowances

18.—(1) Every fire authority shall keep a record of the payments made by it in accordance with these Regulations or any scheme made pursuant to them.

(2) Such record shall specify the name of the recipient and the amount and nature of each payment and shall be kept available, at all reasonable times, for inspection (free of charge) by any local government elector (within the meaning of section 270(1) of the 1972 Act) for a constituent authority;

(3) A person who is entitled to inspect a record under paragraph (2) may take a copy of any part of it upon payment of such reasonable fee as may be required by the fire authority.

Publicity

19.—(1) Every fire authority shall, as soon as practicable after the making or amendment of any scheme made pursuant to these Regulations, make arrangements for its publication within the fire authority's area.

(2) As soon as practicable after the end of each year to which a scheme relates, every fire authority shall make arrangements for the publication within the fire authority's area of the total sum paid by it in that year under the scheme to each member in respect of each of the following, namely, fire authority allowance, fire authority chairperson's allowance and fire authority vice-chairperson's allowance.

(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 care allowance.

Disapplication

20. Sections 174 and 175 of the 1972 Act shall be disapplied as respects fire authorities.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998**(13)**

Date

The Presiding Officer of the National Assembly

(13) 1998 c.38.