
D R A F T S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2007 No.

LOCAL GOVERNMENT

The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007

Made - - - - - *2007*

Coming into force - - - - - *2nd May 2007*

The Scottish Ministers, in exercise of the powers conferred by section 50 of the Local Government (Scotland) Act 1973(a), section 18 of the Local Government and Housing Act 1989(b), sections 11 and 16 of the Local Governance (Scotland) Act 2004(c), and of all other powers enabling them in that behalf, after consideration of the information, advice and recommendations given to them by the Scottish Local Authorities Remuneration Committee in accordance with the requirements of section 11(4) of the Local Governance (Scotland) Act 2004, hereby make the following Regulations, a draft of which has, in accordance with sections 11 and 16 of that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation, commencement, application and extent

1.—(1) These Regulations may be cited as the Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007 and shall come into force on 2nd May 2007.

(2) These Regulations apply in relation to the payment of allowances and expenses by each local authority to its members who are elected at an ordinary election or by election, and for the duration of their service in the office of councillor.

(3) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

“the 1973 Act” means the Local Government (Scotland) Act 1973;

“the 1995 Regulations” means the Local Authorities Etc. (Allowances) (Scotland) Regulations 1995(d);

“approved duty” has the same meaning as in section 49(2) of the 1973 Act;

(a) 1973 c.65. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
(b) 1989, c.42. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.
(c) 2004 asp 9.
(d) S.I. 1995/912, amended by S.I. 1997/1631, S.I. 1998/3219, S.S.I. 2002/15, and S.S.I. 2004/146.

“by election” means an election to fill a casual vacancy in the office of councillor in accordance with section 37 of the 1973 Act (filling of casual vacancies)(a), that is held after 2nd May 2007;

“Civic Head” means the depute convener of a local authority elected in terms of section 4(2) of the Local Government etc. (Scotland) Act 1994(b) or such other councillor as that local authority decide has the title of Civic Head for the purposes of payment of remuneration and allowances, and reimbursement of expenses, in accordance with section 11 of the Local Governance (Scotland) Act 2004;

“ordinary election” means an ordinary election of councillors for local government areas in Scotland that is held after 2nd May 2007(c).

Amendment of the Local Government (Scotland) Act 1973

3.—(1) Section 47 of the 1973 Act(d) (allowances for attending conferences and meetings) is amended in accordance with this regulation.

(2) In subsection (1)—

- (a) paragraph (a) is repealed;
- (b) substitute “any body” for “any other body”;
- (c) substitute “the body” for “the authority or other body”.

(3) Subsection (3) is repealed.

(4) In subsection (3A), substitute “inside or outside the United Kingdom and convened by any person or body (other than a person or body convening it in the course of a trade or business or a body the objects of which are wholly or partly political)” for “and convened as mentioned in subsection (3) above”.

4.—(1) Section 48 of the 1973 Act (payment of expenses of official and courtesy visits, etc.) is amended in accordance with this regulation.

(2) In subsection (1)(a), “receipted and” is inserted before “reasonably incurred”.

(3) In subsection (2), substitute “any allowances and reimbursement of expenditure by virtue of regulations made under section 11 of the Local Governance (Scotland) Act 2004” for “travelling allowance or subsistence allowance under section 46 of this Act”.

5.—(1) Section 49 of the 1973 Act (provisions supplementary to sections 45 to 48) is amended in accordance with this regulation.

(2) In subsection (1), paragraph (a) is repealed.

(3) In subsection (3), omit “local authority or other”.

Amendment of the Local Government etc. (Scotland) Act 1994

6. Section 4(8) of the Local Government etc. (Scotland) Act 1994 (convener and depute convener) is repealed.

Reimbursement of expenses to a Civic Head

7.—(1) In addition to any payments permitted by virtue of regulations 8 and 9, each local authority may reimburse to its Civic Head any receipted expenditure incurred by that person to enable them to carry out their civic duties, but which amount shall not exceed that provided for in paragraph (2).

(a) 1973, c.65. Section 37 was amended by the Scottish Local Government (Elections) Act 2002 (asp 1), sections 3 and 4.

(b) 1994, c.39.

(c) Ordinary elections are held in accordance with section 5 of the 1994 Act, as amended by the Scottish Local Government (Elections) Act 2002 (asp 1) and section 5(2) of the Local Governance (Scotland) Act 2004 (asp 9).

(d) Section 47 was amended by the Local Government and Housing Act 1989 (“the 1989 Act”), schedule 11, and the Local Government etc. (Scotland) Act 1994, schedules 13 and 14. Section 47(3A) was added by the Local Government, Planning and Land Act 1980 (c.65), section 25(5) and amended by section 194(1) and schedule 11, paragraph 34 of the 1989 Act.

(2) Such amount is the following total yearly amount, depending on the banding of a local authority as specified in Schedule 1–

- (a) Band A - £2,000;
- (b) Band B - £3,000;
- (c) Band C - £4,000;
- (d) Band D - £5,000.

(3) In this regulation, “yearly” means the period of 12 months from the date of the first ordinary election, and subsequent periods of 12 months, and the total yearly amount stated in paragraph (2) applies whether or not the person who is the Civic Head changes within the year.

Reimbursement of expenditure incurred on approved duties

8.—(1) A member of a local authority shall be entitled to receive payments from that authority by way of reimbursement of travel, subsistence or other expenditure incurred by that member (whether the expenditure is incurred inside or outside the United Kingdom) if all the requirements stated in paragraph (2) are met.

(2) The requirements are that–

- (a) the expenditure on travel, or as the case may be on subsistence or in respect of other expenditure, is expenditure that is reasonably incurred by the member for the purpose of enabling them to perform any approved duty as a member of the local authority;
- (b) the expenditure is of a type described in Schedule 2; and
- (c) the expenditure is receipted (apart from road and bridge tolls).

(3) Where expenditure is of a type described in Schedule 2, the expenditure shall be payable to the member by the local authority in accordance with the provisions in this regulation, but not exceeding (for expenditure incurred inside the United Kingdom) such rates as are stated opposite each type of expenditure in Schedule 2.

Mileage allowances for travel

9.—(1) No local authority shall make any payments to its members by way of travel or subsistence allowances (as opposed to the reimbursement of receipted expenditure incurred) in respect of carrying out any approved duty, except where that is permitted by these Regulations.

(2) A member of a local authority shall be entitled to receive payments by way of a mileage allowance in respect of travelling (whether inside or outside the United Kingdom) which is reasonably incurred by them for the purpose of enabling them to perform any approved duty as a member of that local authority.

(3) The mileage allowance shall be payable only in respect of the types of travelling, and at the rates for each type, described in paragraph (4).

(4) Those types of travelling and rates are–

- (a) car or van – 49.3 pence per mile;
- (b) motorcycle – 24 pence per mile;
- (c) bicycle – 20 pence per mile; and
- (d) passenger travelling (where both the member and the passengers are carrying out any approved duties) – an additional sum of 5 pence per mile, per passenger.

Claim forms and records of payments

10.—(1) A member of a local authority may claim amounts of expenditure or allowance by completing and lodging with the local authority, a claim in the form set out in Schedule 3.

(2) Every local authority shall keep a record of the payments of expenditure and allowances made by it in accordance with these Regulations.

(3) Subject to paragraph (4), a record kept pursuant to paragraph (2) shall specify in relation to each payment—

- (a) the name of the recipient; and
- (b) the nature of the claim and the amount of the payment.

(4) A record kept pursuant to paragraph (2) shall be published by a local authority in the form set out in Schedule 4, and such record shall be—

- (a) published on a website operated by that authority;
- (b) made available for inspection, on the request in writing of any person, at either the headquarters of that authority or one other office of that authority (if the person requests inspection at another office); and
- (c) published in such other additional manner as that authority considers appropriate.

(5) A record published pursuant to paragraph (4) shall be published at such frequency as the local authority consider appropriate, but in any event not later than 1st June in each year in respect of the previous year from 1st April to 31st March (or from the date of an ordinary election until 31st March in respect of the first year after coming into force of these Regulations).

Avoidance of duplication

11.—(1) No payment shall be made to a person under any provision of sections 46 to 50 of the 1973 Act in respect of any matter for which a payment has been made to them pursuant to any provision in regulations 7 to 9 (or vice versa).

(2) A member shall not be entitled to take expenditure into account for the purposes of more than one claim.

(3) A member shall not be entitled to take any period of absence from his usual place of residence into account for the purposes of more than one claim.

Amendment of the 1995 Regulations

12.—(1) The 1995 Regulations are amended in accordance with this regulation with effect from the date of the first ordinary election.

(2) In regulation 22, omit “an attendance allowance under a scheme under Part II or”.

(3) In regulation 26, insert a new paragraph—

“(4) Paragraphs (2) and (3) of this regulation do not apply in relation to any claims by members of local authorities in their capacity as such members.”.

(4) In regulation 27—

- (a) omit “45(4) or” in paragraph (1);
- (b) insert a new paragraph—

“(3) Paragraphs (1) and (2) of this regulation do not apply in relation to payments by local authorities or in relation to any members of local authorities in their capacity as such members.”.

Revocations

13.—(1) Subject to Regulation 14, the provisions of the 1995 Regulations specified in paragraph (2) are revoked with effect from the date of the first ordinary election.

(2) The provisions referred to in paragraph (1) are—

- (a) regulation 8;
- (b) regulation 9(c); and
- (c) regulation 11(1), (2) and (4).

Savings

14. Notwithstanding revocation of any provisions of the 1995 Regulations by virtue of regulation 13 that provision shall continue to have effect in relation to claims made for allowances or other payments in respect of duties performed up to but not including the date of the first ordinary election.

St Andrew's House,
Edinburgh

2007

A member of the Scottish Executive

SCHEDULE 1

Regulation 7

BANDING OF LOCAL AUTHORITIES FOR CIVIC HEAD EXPENDITURE

Band A

Clackmannanshire Council
Comhairle nan Eilean Siar
East Lothian Council
East Renfrewshire Council
Inverclyde Council
Midlothian Council
Moray Council
Orkney Islands Council
Shetland Islands Council
Stirling Council

Band B

Angus Council
Argyll and Bute Council
Dumfries and Galloway Council
Dundee City Council
East Ayrshire Council
East Dunbartonshire Council
Falkirk Council
North Ayrshire Council
Perth and Kinross Council
Renfrewshire Council
Scottish Borders Council
South Ayrshire Council
West Dunbartonshire Council
West Lothian Council

Band C

Aberdeen City Council

Aberdeenshire Council

Fife Council

The Highland Council

North Lanarkshire Council

South Lanarkshire Council

Band D

City of Edinburgh Council

Glasgow City Council

SCHEDULE 2

Regulation 8

TYPES OF EXPENDITURE AND MAXIMUM RATES

- (a) Meals taken by a member of a local authority within the electoral ward in respect of which they hold office, (except within any local authority premises) for the following wards—
- The amount per day stated for each meal in paragraphs (b), (c) and (d) if the local authority determines the expense is reasonably incurred for approved duties, and otherwise no reimbursement.

The Highland Council

Ward 1 – North West and Central Sutherland
Ward 6 – Wester Ross, Strathpeffer and Lochalsh
Ward 12 – Caol and Mallaig
Ward 22 – Fort William and Ardnamurchan

Argyll and Bute Council

Ward 2 – Kintyre and the Islands
Ward 4 – Oban South and the Isles

Comhairle nan Eilean Siar

Ward 1 – Barraigh, Bhatarsaigh, Eirisgeigh agus Uibhist a Deas

Shetland Islands Council

Ward 1 – North Isles

Orkney Islands Council

Ward 3 – Stromness and South Isles
Ward 6 – North Isles

- (b) Breakfast (where no overnight subsistence is claimed) £8 per day
- (c) Lunch £12 per day
- (d) Dinner £25 per day

Meals taken under paragraphs (b), (c) and (d) are those taken by a member of a local authority outside the electoral ward in respect of which they hold office and not within any local authority premises

- (e) Overnight accommodation away from home and local authority premises (costs for bed and breakfast) £118.63 within London
£94.82 elsewhere

(f) Other particular costs of travel by private car, motorcycle or bicycle, being–	Receipted costs of expense
(i) parking charges	
(ii) road pricing schemes and congestion charging	
(iii) ferry fares	
(g) Road and bridge tolls	Actual costs of expense
(h) Public transport (including taxis)	Receipted cost of expense
(i) Telephone and computer line rental for use of personal telephone and computer for approved duties	50 per cent of line rental cost
(j) Telephone and computer line rental for second line for approved duties use	Receipted cost of expense
(k) Telephone and computer costs (apart from calls or line rental) necessarily incurred for approved duties	Receipted cost of expense
(l) Calls made in respect of approved duties, upon a home telephone, networked personal computer, fax machine, or personal mobile telephone	Receipted cost of expense

NOTES OF GUIDANCE FOR COMPLETION OF CLAIM FORM

The claim form has been devised to take account of the requirements for publishing information in a standard format about Councillors' claims. This form will also provide the necessary documentation for HM Revenue and Customs and Internal and External Audit.

To assist in completion of the form your attention is drawn to the following points:

1. **DATE**

Please insert Date for which expense item is claimed.

2. **TIMES OF DEPARTURE/ARRIVAL**

Departure/Arrival Times should be entered for verification of amounts claimed for subsistence.

3. **DETAILED DESCRIPTION OF APPROVED DUTY**

Clearly indicate which meeting you are attending or the relevant detail of the approved duty undertaken. Approved duties should indicate – Council Meetings, duties in connection with Council functions, conferences/seminars etc. nominee to other bodies, group meetings, duties undertaken by chair or vice chair or other senior councillors, members surgeries, constituency/committee work and meetings with named Officers.

4. **EXPENSE ITEMS/JOURNEY DETAILS**

As meetings and approved duties are held at various locations, it is essential for the calculation of mileage that all locations visited are entered onto the claim form.

5. **PASSENGER MILES**

This calculation should be entered by calculating the number of miles travelled multiplied by the number of passengers e.g. 2 passengers times 30 miles = 60 passenger miles.

6. **SUBSISTENCE**

Subsistence relates to overnight accommodation and meals. Only receipted costs will be reimbursed to the prescribed maximum levels when council business was required to be conducted outwith a Councillor's own ward, or outwith council premises, or otherwise in accordance with Schedule 2 to the Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007.

7. **OTHER TRAVEL EXPENSES**

This column should be used to record claims for public transport, taxi and air fares and any other allowable travel expenses for which a receipt is available.

8. **OTHER EXPENSES**

This column should be used for reimbursement of other receipted allowable expenditure.

**MEMBER'S TRAVEL & SUBSISTENCE
EXPENSES CLAIM FORM**

MEMBER'S NAME: PAYROLL NO.:
PRIVATE VEHICLE REG NO.: PERIOD END:

SUMMARY OF CLAIM

Car Mileage Claim	
Motorcycle Mileage Claim	
Bicycle Mileage Claim	
Passenger Mileage Claim	
Subsistence	
Other Travel	
Other Expenses	
Total of Claim	

OFFICIAL USE ONLY	

DECLARATION

I declare that:-

- The amounts of travel and subsistence expenses claimed, have been actually and reasonably incurred for the purpose of enabling me to perform approved duties as a Member of the Council.
- I have paid the fares shown and all other amounts claimed are in accordance with rates approved by the council.
- I have attached all necessary receipts in connection with expenses claimed.
- I have not made, and will not make, any other claim under any enactment for subsistence expenses or allowances in connection with the duties indicated in this form.
- Where I am claiming mileage expenses, I have a valid licence and appropriate motor insurance, which covers my vehicle being used for business purposes.

SIGNATURE _____

DATE: _____

Finance Use Only

CHECKED BY _____

DATE: _____

AUTHORISED BY _____

DATE: _____

SCHEDULE 4

Regulation 10

RECORD OF CLAIMS

ANNUAL RETURN

NAME (A)	DESIGNATION (B)	SALARY (C) £	RE-IMBURSEMENT OF EXPENSES					SALARY & EXPENSES TOTAL (I)=C+G £
			TRAVEL EXPENSES (D) £	SUBSISTENCE EXPENSES (E) £	TELEPHONE & INFORMATION COMMUNICATION TECHNOLOGY (ICT) EXPENSES (F) £	OTHER EXPENSES (G) £	TOTAL EXPENSES (H)=D+E+F+G £	
TOTAL								

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in accordance with section 50 of the Local Government (Scotland) Act 1973 (“the 1973 Act”), section 18 of the Local Government and Housing Act 1989 (“the 1989 Act”), and sections 11 and 16 of the Local Governance (Scotland) Act 2004 (“the 2004 Act”). They make provision for the payment by local authorities to their members of certain types of allowance and reimbursement of expenditure incurred on approved duties of such members, from and after the date of the next ordinary election that is held after 2nd May 2007. In making these provisions, it is also necessary to amend sections 47, 48 and 49 of the Local Government (Scotland) Act 1973, and to repeal section 4(8) of the Local Government etc. (Scotland) Act 1994 (“the 1994 Act”).

Regulation 3 provides for the amendment of section 47 of the 1973 Act to disapply it to local authorities. Section 47(3), providing for local authorities to pay allowances to members for attendance at certain conferences or meetings, is repealed.

Regulation 4 provides for amendment of section 48 of the 1973 Act. That section enables local authorities to defray certain travelling and other expenses for official and courtesy visits on behalf of the authority, and certain expenses incurred in reception and entertainment by way of official courtesy. The amendments provide that the local authority may reimburse receipted expenses incurred by members that meet the criteria of the section. The amendment of section 48(2) provides that, for expenses in relation to official and courtesy visits within the United Kingdom, the amount defrayed by the authority shall not exceed the payments that the member would be entitled to receive, if the visit had been an approved duty of the member under section 11 of the 2004 Act. This replaces the reference to travel and subsistence allowances under section 46 which no longer applies to local authority members.

Regulation 5, by amending section 49 of the 1973 Act, disapplies section 46 of the 1973 Act to local authorities and their members. Such members are not entitled to travelling and subsistence allowance under that section.

Regulation 6 repeals section 4(8) of the 1994 Act, which permits local authorities to pay an allowance to the convener or depute convener.

Regulation 7 enables an amount to be paid to the member designated as the Civic Head of a local authority for the purposes of reimbursement of receipted expenditure incurred in the carrying out of civic duties, under section 11 of the 2004 Act. The amount is subject to a yearly maximum, as further defined.

Regulation 8 provides for the requirements in terms of which reimbursement for travel, subsistence or other expenditure may be made to members of a local authority. It provides for the expenditure to be reasonably incurred by the member to enable them to perform an approved duty, limits the amount of expenditure in various cases and defines the types of permitted expenditure in Schedule 2.

Regulation 9 provides for members of local authorities to receive a stated mileage allowance in respect of carrying out an approved duty, based on their mode of travel and whether or not they carry passengers.

Regulation 10 provides for all claims for allowance or reimbursement of expenses to be made on a prescribed claim form and signed by the member. It also states requirements for keeping records and publishing information which apply to local authorities.

Regulation 11 makes provision to avoid the duplication of claims for the same item of expenditure.

Regulation 12 provides for consequential amendments of provisions in the Local Authorities Etc. (Allowances) (Scotland) Regulations 1995 (“the 1995 Regulations”), particularly to remove provisions for attendance allowances under a scheme for allowances.

Regulation 13 provides for consequential revocation of various provisions of the 1995 Regulations, particularly in relation to schemes for the payment of attendance allowance.

Regulation 14 provides for the saving of claims under such revoked provisions, up to the date of the next ordinary election when the new provisions will apply.

Draft Regulations laid before the Scottish Parliament under sections 11 and 16 of the Local Governance (Scotland) Act 2004, for approval by resolution of the Scottish Parliament.

D R A F T S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2007 No.

LOCAL GOVERNMENT

The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007

£3.00

© Crown Copyright 2007

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland

50

02/07

19593