

---

WELSH STATUTORY INSTRUMENTS

---

**2003 No. 2676 (W.258)**

**LOCAL GOVERNMENT, WALES**

**The Local Authorities (Allowances for Members of County and County Borough Councils) (Past Service Awards) (Wales) Regulations 2003**

*Made - - - - 15th October 2003*

*Coming into force - - 16th October 2003*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by section 18(3A) of the Local Government and Housing Act 1989(1) which are exercisable by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999(2) so far as exercisable in Wales and the powers given to it by sections 13, 32, 105 and 106 of the Local Government Act 2000(3).

**Name, commencement and application**

1.—(1) These Regulations are called the Local Authorities (Allowances for Members of County and County Borough Councils) (Past Service Awards) (Wales) Regulations 2003 and they shall come into force on 16th October 2003.

(2) These Regulations apply to Wales only.

**Interpretation**

2. In these Regulations —

“the 1972 Act” (“*Deddf 1972*”) means the Superannuation Act 1972(4);

“authority” (“*awdurdod*”) means a county council or a county borough council in Wales;

“past service award” (“*dyfarndal am wasanaeth a roddwyd*”) means a gratuity in accordance with regulations made under section 7 of the 1972 Act;

“predecessor authority” (“*awdurdod rhagflaenol*”) means any local authority in existence in Wales prior to 1st April 1996 not being a parish, town or community council;

---

(1) [c.42](#). Section 18(3A) of the Local Government and Housing Act 1989 was inserted by section 99(7) of the Local Government Act 2000.

(2) [S.I. 1999/672](#).

(3) [c.22](#).

(4) [c.11](#).

“qualifying period” (“*cyfnod cymhwys*”) means that period of time which an authority determines as the period for which a member must have been an elected member of an authority or a predecessor authority in Wales to qualify for a past service award being a period of not less than fifteen years by 9th May 2003.

### **Past service awards**

3. Subject to Regulation 4 an authority may determine which members of that authority, who are councillors of that authority, are entitled to a past service award.

### **Entitlement to past service awards**

4. In determining which members are entitled to a past service award in accordance with Regulation 3 an authority must —

- (a) require that a member has served a qualifying period;
- (b) require that a member must make written application to the Head of Paid Service for a past service award by such date as may be determined by the authority being not later than five weeks after the coming into force of these Regulations;
- (c) require that the member is an elected member of that authority on the day following the final day for nominations for the ordinary election of councillors of authorities in 2004;
- (d) ensure that before making payment of a past service award to a member having made application in accordance with paragraph (b) it is satisfied that the member did not subsequently stand for election in the 2004 elections for authorities; and
- (e) ensure that the member is not also a member of the National Assembly for Wales, House of Commons, the House of Lords or the European Parliament.

### **Calculation of qualifying period**

5.—(1) In calculating any qualifying period in accordance with regulation 4(a) an authority must, subject to the limitations specified in paragraph (2), take account of any periods of previous service whether any such periods of previous service were with the authority, any other authority or any predecessor authority.

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

- (a) periods of suspension are not to be regarded as periods of service;
- (b) where periods of previous service with a predecessor authority have been served concurrently with more than one such authority, it is only service with one such authority that is to be taken into account.

(3) In calculating any qualifying period in accordance with Regulation 4(a) where service was with a predecessor authority which ceased to exist on 31st March 1996 the period of service from May 1995 to 31st March 1996 is deemed to be one year’s service except in the case of a member who was also a member of an authority on 1st April 1996.

### **Amendment of Regulations**

6. In paragraph H of Schedule 1 to the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001<sup>(5)</sup> (Functions relating to pensions etc.) there is added—

(a) in column (1) after 1 —

“1A. Functions relating to pensions, allowances and gratuities; and”;

---

(5) [S.I. 2001/2291 \(W.179\)](#).

(b) in column (2), in relation to the entry in column 1 for item 1A —

“Regulations under section 18(3A) of the Local Government and Housing Act 1989 (c. 42);”(6).

7. In paragraph H of Schedule 1 to the Local Authorities (Alternative Arrangements) (Wales) Regulations 2001(7) (Functions relating to pensions etc.) there is added —

(a) in column (1) after 1 —

“1A. Functions relating to pensions, allowances and gratuities; and”; and

(b) in column (2), in relation to the entry in column 1 for item 1A —

“Regulations under section 18(3A) of the Local Government and Housing Act 1989 (c. 42);”(8).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(9)

15th October 2003

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

---

(6) 1989 c. 42.  
(7) S.I. 2001/2284 (W.173).  
(8) 1989 c. 42.  
(9) 1998 c. 38.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 18(3A) of the Local Government and Housing Act 1989, as inserted by section 99(7) of the Local Government Act 2000 (“the 2000 Act”), provides the power for the Secretary of State to make regulations which may make provision for or in connection with enabling county and county borough councils to determine which of their members are entitled to gratuities. Section 18(3A) is exercisable by the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999. Section 13(3)(a) of the 2000 Act allows the National Assembly for Wales to make provision for any function of a local authority specified in regulations made under that section to be a function which is not to be the responsibility of an executive under executive arrangements. Section 32 of the 2000 Act permits the making of like amendments in respect of councils operating “alternative arrangements” with a Board rather than an executive.

Regulation 3 enables county and county borough councils in Wales to determine which members (who are councillors) are entitled to gratuities (known in these Regulations as “past service awards”) in accordance with regulations made under section 7 of the Superannuation Act 1972.

Regulation 3 enables authorities to determine which members are entitled to past service awards, subject to eligibility criteria in Regulation 4.

Regulation 4 requires that authorities, in determining eligibility of members for past service awards, must:

- require the member have served such qualifying period as the council may determine being not less than 15 years service by 9th May 2003;
- require the member makes a written application to the Head of Paid Service by such date as the authority may determine being not later than five weeks after the coming into force of these Regulations;
- require the member is an elected member of that authority on the day following the final day for nominations for the ordinary election of councillors of county and county borough councils in 2004;
- ensure that, prior to payment of a past service award, a member did not stand in the 2004 county and county borough elections after making application to the Head of Paid Service for such an award; and
- ensure that the member is not also a member of the National Assembly for Wales, the House of Commons, House of Lords or the European Parliament.

Regulation 5 requires that in calculating any qualifying period an authority must take account of any previous service (but excluding periods of suspension) including service when a member was a member of any Welsh authority prior to 1st April 1996 (excluding parish, town and community councils). Where a member has periods of service pre-1996 with more than one authority and those periods of service were served concurrently, only service with one of those authorities may be used in calculating any qualifying period. In calculating any qualifying period in respect of service with a pre-1996 authority, which ceased to exist on 31st March 1996, the period of service from May 1995 to March 1996 is deemed to be one year’s service unless a member was also a member of a successor authority on 1st April 1996.

Regulation 6 amends the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 (“the 2001 Executive Arrangements Regulations”). Part

II of the 2000 Act provides for the discharge of a local authority's functions by an authority's executive unless those functions are specified as functions not to be the responsibility of the authority's executive. These Regulations ensure that the responsibility for determining which members are entitled to past service awards is a function of the council, by amending the 2001 Executive Arrangements Regulations.

Regulation 7 amends the Local Authorities (Alternative Arrangements) (Wales) Regulations 2001 in a similar manner to the amendment made by Regulation 6. The effect of Regulation 7 is such that where a council operates "alternative arrangements" in accordance with Part II of the 2000 Act the responsibility for determining which members are entitled to past service awards is not a function of the Board but a matter for the council.

Regulations 6 and 7 also effect amendments which mean that functions in relation to pensions and allowances in respect of regulations made under section 18(3A) of the Local Government and Housing Act 1989 are functions that cannot be dealt with by the executive or the Board of a council (as appropriate) and must be a matter for the council.