
WELSH STATUTORY INSTRUMENTS

2003 No. 2963 (W.280)

LOCAL GOVERNMENT, WALES

The Local Authorities (Allowances for Members of County and County Borough Councils) (Pensions) (Wales) Regulations 2003

Made - - - - 18th November
2003
Coming into force - - 1st January 2004

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by sections 18(3A),(3D) and (3G) of the Local Government and Housing Act 1989(1) which are now vested in it by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999(2) so far as exercisable in Wales:

Name, commencement and application

1.—(1) These Regulations are called the Local Authorities (Allowances for Members of County and County Borough Councils) (Pensions) (Wales) Regulations 2003 and they shall come into force on 1st January 2004.

(2) These Regulations apply to Wales only.

Interpretation

2. In these Regulations —

“the 2002 Regulations” (“*Rheoliadau 2002*”) means the Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002(3);

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

“basic allowances” (“*twfansau sylfaenol*”) mean allowances as defined in regulation 7 of the 2002 Regulations;

“members” (“*aelodau*”) means councillors of an authority including the elected mayor of an authority operating different executive arrangements which take a form which includes an elected mayor;

(1) [c.42](#). Subsections (3A),(3D) and (3G) of section 18 were inserted by section 99 of the Local Government Act 2000 ([c. 22](#).)

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

(3) [S.I. 2002/1895 \(W.196\)](#).

“special responsibility allowances” (“*lwfansau cyfrifoldeb arbenning*”) mean allowances as defined in regulation 8 of the 2002 Regulations.

Pensions

3.—(1) An authority may —

- (a) determine which members of the authority are entitled to pensions in accordance with the Local Government Pension Scheme Regulations 1997(4); and
- (b) provide in respect of those members referred to in paragraph (a) that basic allowances and special responsibility allowances are treated as amounts in respect of which pensions are payable.

(2) An authority must in making any determination in accordance with this regulation only do so in respect of a member who has been first recommended by the Welsh Independent Remuneration Panel as eligible for such entitlement, under regulation 5.

Welsh Independent Remuneration Panel

4.—(1) The National Assembly for Wales must appoint a temporary independent remuneration panel known as the Welsh Independent Remuneration Panel in accordance with this Regulation in respect of all authorities.

(2) The Welsh Independent Remuneration Panel must exist for a period of six months commencing from the date of its establishment by the National Assembly for Wales.

(3) The Welsh Independent Remuneration Panel must consist of at least three members appointed by the National Assembly for Wales including one member appointed as the chairperson.

(4) None of the members appointed in accordance with paragraph (3) may be —

- (a) a member of the National Assembly for Wales, the House of Commons, the House of Lords, the European Parliament, an authority, a town or community council; or
- (b) disqualified (5) from being or becoming a member of an authority other than as an officer in the employment of a local authority.

(5) The National Assembly for Wales must pay the expenses incurred by the Welsh Independent Remuneration Panel in carrying out its functions and may pay the members of the panel such allowances or expenses as it may determine.

(6) The National Assembly for Wales must make available to the Welsh Independent Remuneration Panel appropriate administrative support.

Recommendations of the Welsh Independent Remuneration Panel

5.—(1) The Welsh Independent Remuneration Panel must produce a report in relation to all authorities, making recommendations as to which members of an authority are to be entitled to pensions in accordance with the Local Government Pension Scheme Regulations 1997.

(2) The Welsh Independent Remuneration Panel may, in the performance of its functions under paragraph (1) seek information or advice from any body or person.

(3) The Welsh Independent Remuneration Panel may make different recommendations in relation to each of the authorities in respect of which it exercises its functions.

(4) S.I. 1997/1612, as amended by S.I. 1997/1613, S.I. 1998/1238, S.I. 1999/1212, S.I. 1999/3438, S.I. 2000/ 3025, S.I. 2001/3649, S.I. 2001/ 770, S.I. 2001/1481, S.I. 2001/2401, S.I. 2002/206, S.I. 2002/819, S.I. 2003/2249. There are other amendments which are not relevant to Wales.

(5) See Section 80 of the Local Government Act 1972 (c. 70) and sections 79 and 83(11) of the Local Government Act 2000.

Publicity for recommendations of the Welsh Independent Remuneration Panel

6.—(1) The National Assembly for Wales must send a copy of the report made under regulation 5 (1) to each authority as soon as is reasonably practical after it receives the report.

(2) The National Assembly for Wales must:

- (a) publish the details of the report made under regulation 5 (1) in one or more newspapers circulating throughout Wales; and
- (b) include in the publication under subparagraph (a) a statement that copies of the report will be available at the principal offices of the authorities to members of the public at such times as may be specified by those authorities.

(3) Each authority must ensure that as soon as is reasonably practical after receiving the report of the Welsh Independent Remuneration Panel made under regulation 5 (1):

- (a) copies are available for inspection by members of the public at the principal office of the authority at such reasonable times as the authority may specify; and
- (b) a copy is supplied to any person who requests it and who pays the authority such reasonable fee as the authority may determine.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(6)

18th November 2003

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

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, 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 pensions and to treat basic allowance or special responsibility allowance as amounts in respect of which pensions are payable. This power is now vested in the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999.

At Regulation 3 these Regulations enable county and county borough councils in Wales to determine which members (who are councillors) are entitled to pensions in accordance with the Local Government Pension Scheme Regulations 1997 (as amended). Where authorities use their discretion to admit members to pension schemes they must make provision for basic allowances and special responsibility allowances to be treated as pensionable and must have regard to any recommendations made by the Welsh Independent Remuneration Panel in accordance with regulation 5 as to which members may be entitled to such benefits.

Regulation 4 enables the National Assembly for Wales to establish a temporary independent remuneration panel, known as the Welsh Independent Remuneration Panel, for a period of six months (regulation 4(2)). The panel will consist of no less than three members (regulation 4(3)), one of who should be appointed as chairperson by the National Assembly for Wales. The panel will not comprise members who are members of the National Assembly for Wales, the House of Commons, the House of Lords, the European Parliament, a county or county borough council, a town or community council (regulation 4(4)(a)). Neither should the panel have any members who are disqualified from being or becoming a member of a county or county borough council (regulation 4(4)(b)) other than an officer in the employment of a local authority. The National Assembly for Wales may pay allowances and expenses in respect of the Wales Independent Remuneration Panel and provide appropriate administrative support (regulations 4(5) and (6)).

Regulation 5 sets out the functions of the Welsh Independent Remuneration Panel. The panel will produce a report that recommends which members of county and county borough councils are entitled to pensions under the Local Government Pension Scheme Regulations 1997. In performing this function the panel may seek information or advice from any body or any person (regulation 5(2)). The National Assembly for Wales will send a copy of the panel's report to each county and county borough council (regulation 5(4)).

Under regulation 6 the National Assembly for Wales will publish the details of the panel's report in newspapers in Wales. Each county and county borough council will make the report available to the public for inspection (regulation 6(3)(a)) and make a copy available at such reasonable fees as the authority may determine (regulation 6(3)(b)).