

2012 No. 85

LOCAL GOVERNMENT

**Local Government (Payments to Councillors) Regulations
(Northern Ireland) 2012**

Made - - - - - *2nd March 2012*

Coming into operation - *1st April 2012*

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The Department of the Environment makes the following Regulations in exercise of the powers conferred by section 31(1), (3) and (4) and section 43(2) of the Local Government Finance Act (Northern Ireland) 2011(a).

In accordance with section 44(1) of that Act the Department has consulted councils, such associations representative of councils, such associations representative of officers of councils and such other persons or bodies as appear to be appropriate.

PART 1
GENERAL

Citation and commencement

1. These Regulations may be cited as the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012 and shall come into operation on 1st April 2012.

Interpretation

2. In these Regulations—

“the Act” means the Local Government Finance Act (Northern Ireland) 2011;

“approved duty” means any of the following duties—

- (a) attendance at a meeting of a council, or any of its committees or sub-committees, or at a meeting of a joint committee or any of its sub-committees, or at a meeting of a group committee established under the provisions of the Local Government (Employment of Group Building Control Staff) Order (Northern Ireland) 1994(b) or the Local Government (Employment of Group Environmental Health Staff) Order (Northern Ireland) 1994(c); or
- (b) the doing of anything approved by a council or, as the case may be, by a joint committee, or anything of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the council, or any of its committees or sub-committees, or as the case may be, of the joint committee or any of its sub-committees,

and shall not include a site visit;

“committee member” means a person, not being a councillor, appointed to a committee or a sub-committee of a council, or to a joint committee or a sub-committee of a joint committee, under sections 18 or 19 of the Local Government Act (Northern Ireland) 1972(d);

“councillor” means a member of a council;

“the Department” means the Department of the Environment;

“site visit” means a visit made by a councillor in connection with an application for planning permission—

- (a) which has been referred to a council for consultation under Article 15(a) of the Planning (General Development) Order (Northern Ireland) 1993(e); or

(a) 2011 c.10 (N.I.)
(b) S.R. 1994 No. 497
(c) S.R. 1994 No. 498
(d) 1972 c.9 (N.I.)
(e) S.R. 1993 No. 278

- (b) at the request of the applicant for that planning permission, or the agent of an applicant, or at the request of an objector to that application; and
- “year” means the period of 12 months ending on 31st March in any year after the coming into operation of these Regulations.

PART 2

SCHEMES FOR COUNCILLORS’ ALLOWANCES

Scheme of allowances

3.—(1) A council shall make a scheme in accordance with these Regulations for the payment of allowances to councillors and committee members in respect of each year.

(2) A scheme must specify in respect of any year to which it relates the amount of, or means to ascertain the amount of,—

- (a) basic allowance; and
- (b) special responsibility allowance and, where different amounts apply to different responsibilities, the amount or means to ascertain the amount applicable to each.

(3) The scheme shall also make provision for the following allowances if the council intends to make such payments in respect of the year—

- (a) dependants’ carers’ allowance; and
- (b) travel and subsistence allowances.

(4) A scheme 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.

(5) A scheme may be amended or revoked at any time.

(6) When a scheme is revoked in accordance with this regulation, a council shall, before the revocation takes effect, make a further scheme for the period beginning with the date on which the revocation takes effect and ending at the end of the year in question.

Basic allowance

4.—(1) A council may make a payment to each councillor by way of an allowance (“basic allowance”) for, or in relation to anything done in connection with, service as a councillor, including an approved duty.

(2) The amount of basic allowance shall be determined by the council.

(3) Subject to paragraph (5), the amount of basic allowance shall be the same for each councillor.

(4) Subject to paragraph (5), where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement to payment of such part of the basic allowance shall be the relevant proportionate amount of the yearly rate.

(5) For any period, in relation to any year, during which a councillor who is also—

- (a) a member of the Northern Ireland Assembly;
- (b) a member of the House of Lords;
- (c) a member of Parliament; or
- (d) a member of the European Parliament,

is entitled to receive basic allowance, by virtue of paragraphs (1) to (4), the amount of basic allowance payable to the councillor shall be reduced by two thirds.

Special responsibility allowance

5.—(1) A council may, in addition to any allowance under regulation 4, make a payment to a councillor by way of an allowance (“special responsibility allowance”), if the council is satisfied that the councillor has special responsibilities in relation to the discharge of the functions of the council.

(2) Subject to paragraph (4), the amount of the special responsibility allowance shall be determined by the council.

(3) Subject to paragraph (4), where any period, for which the councillor is entitled to a special responsibility allowance, is less than a year, the amount payable for the period shall be the relevant proportionate part of the yearly rate.

(4) For any period, in relation to any year, during which a councillor who is also—

- (a) a member of the Northern Ireland Assembly;
- (b) a member of the House of Lords;
- (c) a member of Parliament; or
- (d) a member of the European Parliament,

is entitled by virtue of paragraphs (1) to (3) to receive special responsibility allowance, the amount of special responsibility allowance payable to the councillor shall be reduced by two thirds.

(5) Subject to paragraphs (6) and (7), a special responsibility allowance may not be paid to more than fifty per cent of the councillors of the council (calculated using the total number of seats on the council and by rounding up the number of councillors to the next whole number when, in calculating the percentage, the number is not a whole number).

(6) A special responsibility allowance paid to the chairman or vice-chairman of the council is excluded from the calculation in paragraph (5).

(7) A council may, where it considers it necessary to do so, apply to the Department for permission to pay a special responsibility allowance to more than fifty per cent of its councillors.

(8) A council may not pay more than one special responsibility allowance to a councillor.

Dependants’ carers’ allowance

6.—(1) Subject to paragraphs (2) to (4), a council may, in addition to any allowance under regulations 4 and 5, make a payment to a councillor by way of an allowance (“dependants’ carers’ allowance”), in respect of such expenses of arranging for the care of their children or dependants as are necessarily incurred in respect of the performance of any approved duty.

(2) The amount of dependants’ carers’ allowance shall be determined by the council.

(3) The amount of dependants’ carers’ allowance payable by the council shall be the lesser of—

- (a) the actual expenses of arranging care of their children or dependants as are necessarily incurred in respect of the performance of any approved duty; or
- (b) such amount as is determined by the council.

(4) The council shall not make any payment under this regulation —

- (a) in respect of any child over the age of fifteen years, or any dependant, unless the councillor satisfies the council that the child or dependant required supervision which incurred expenses that were necessary in respect of the care of that child or dependant in the carrying out of an approved duty;
- (b) to more than one councillor in relation to the care of the same child or dependant; or
- (c) of more than one dependants’ carers’ allowance to any councillor.

Travel and subsistence allowances

7.—(1) Subject to paragraph (2), a councillor or committee member shall be entitled to receive payment by way of—

- (a) travel allowance in accordance with the rules in Schedule 1; and
- (b) subsistence allowance in accordance with the rules in Schedule 2,

where expenditure on travel or on subsistence is necessarily incurred in the carrying out of an approved duty.

(2) The rate of allowance determined under paragraph (1) by a council shall be the same for all councillors or committee members entitled to the relevant allowance, and for every approved duty in respect of which it is payable.

(3) Any claim for payment of travel and subsistence allowances in accordance with these Regulations (excluding claims for travel by means of a private motor vehicle) shall be accompanied by appropriate receipts proving actual expenses, subject to any requirement or limitation that a council may determine.

(4) For the purpose of paragraph (3), a councillor or committee member's private motor vehicle includes a vehicle belonging to a family member or otherwise provided for use by the councillor or committee member.

PART 3

ADMINISTRATIVE ARRANGEMENTS

Claims for allowances

8.—(1) A councillor entitled to an allowance under regulation 6 shall make a claim for such allowance, in such form as the council may direct, to the clerk of the council and shall make a declaration that—

- (a) there has not been and will not be any claim submitted to any other body in respect of the dependants' carers' allowance to which the claim relates;
- (b) the amounts claimed are strictly in accordance with these Regulations;
- (c) the care to which the claim relates has been provided;
- (d) the costs to which the claim relates have necessarily been incurred; and
- (e) the costs to which the claim relates have been paid by the councillor.

(2) A councillor or committee member entitled to an allowance under regulation 7 shall make a claim for such an allowance, in such form as the council may direct, to the clerk of the council, and shall make a declaration that there has not been and will not be any claim for allowances from any other body in respect of the travel and subsistence to which the claim relates.

Time for submission of claims

9. A claim for any allowance under regulation 6 or regulation 7 shall be submitted within 3 months from the date on which the approved duty was performed.

Records of allowances

10.—(1) A council 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 must—

- (a) specify the name of the recipient and the amount and nature of each payment; and

(b) be available, at all times, for inspection (free of charge) by any interested person.

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

(4) In this regulation, “interested person” means—

- (a) a local elector for the district of the council to which the scheme relates;
- (b) a person liable for rates in respect of any hereditament situated in that district; or
- (c) a representative of a person mentioned in sub-paragraph (a) or (b).

Publicity

11.—(1) A council shall, as soon as practicable after the making or amendment of any scheme of payments made pursuant to these Regulations—

- (a) arrange for a copy of the scheme to be published on its website; and
- (b) make such other arrangements for the publication of the scheme within the district of the council as it considers appropriate.

(2) As soon as practicable after the end of a year to which a scheme relates, a council shall make arrangements for the publication on the council website of the total sum paid in that year to each councillor in respect of each of the following—

- (a) basic allowance;
- (b) special responsibility allowance; and
- (c) dependants’ carers’ allowance.

(3) As soon as practicable after the end of a year to which a scheme relates, a council shall make arrangements for the publication on the council website of the total sum paid in that year to each councillor or committee member in respect of travel and subsistence.

Amendments to the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009

12.—(1) The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009^(a) shall be amended in accordance with paragraph (2).

(2) In the Schedule (councillor members), in paragraph 1—

- (a) in regulation 4(1) for the words “the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999” substitute “the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012”; and
- (b) in regulation 4(2) for the words “in regulations 3 and 5 respectively of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999” substitute “in regulations 4 and 5 respectively of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012”.

Revocations and savings

13.—(1) Subject to paragraph (2) the Regulations specified in Schedule 3 are revoked.

(2) The Regulations specified in Schedule 3 shall continue to have effect in relation to claims made for allowances or other payments in respect of duties performed before these Regulations come into operation.

^(a) S.R. 2009 No. 32 as amended by S.R. 2010 No. 164, S.R. 2010 No. 410 and S.R. 2011 No. 117

Sealed with the Official Seal of the Department of the Environment on 2nd March 2012



Linda MacHugh
A senior officer of the Department of the Environment

SCHEDULE 1

regulation 7(1)(a)

RULES WITH RESPECT TO THE PAYMENT OF TRAVEL ALLOWANCES

1. The rate for travel by public service shall not exceed the amount of the ordinary first class fare or any available cheap first class fare, provided that the sum paid shall not exceed the actual amount disbursed by the councillor or committee member.

2. The rate specified in the preceding paragraph may be increased by supplementary allowances not exceeding expenditure actually incurred—

- (a) on special supplements, reservation of seats and deposits or portage of luggage; and
- (b) on sleeping accommodation engaged by the councillor or committee member for an overnight journey subject, however, to reduction by one third of any subsistence allowance payable for that night.

3. The rate for travel by taxi shall not exceed—

- (a) in cases of urgency or where no public service is reasonably available, the amount of the actual fare and any reasonable gratuity paid; and
- (b) in any other case, the amount of the fare which the councillor or committee member would have been entitled to claim if travelling by appropriate public service.

4. The rate for travel by a hired motor vehicle other than a taxi shall not exceed the rate which would have been applicable had the vehicle belonged to the councillor or committee member who hired it, provided that where the council so approves, the rate may be increased to an amount not exceeding the actual cost of the hiring.

5. Fares for travel by air shall be payable if either—

- (a) the rate for travel by air does not exceed the rate applicable to travel by appropriate alternative means of transport together with an allowance equivalent to the amount of any saving in subsistence expenses consequent on travel by air; or
- (b) the council resolves, either generally or specially, that the saving in time is so substantial as to justify payment of the fare for travel by air, in which case there may be paid an amount not exceeding—
 - (i) the ordinary or any available cheap fare for travel by regular air service; or
 - (ii) where no such service is available, or in any case of urgency, the fare actually paid by the councillor or committee member.

6.—(1) If a councillor or committee member uses a private motor vehicle in preference to a public service, or where a public service is not available, the rates per mile payable shall be determined by the council in respect of the types of vehicles specified in sub-paragraph (2).

(2) The types of vehicles specified for the purposes of sub-paragraph (1) are—

- (a) a pedal cycle;
- (b) a solo motor cycle of cylinder capacity not exceeding 149cc;
- (c) a solo motor cycle of cylinder capacity exceeding 149cc but not exceeding 499cc;
- (d) a solo motor cycle exceeding 499cc cylinder capacity or a motor cycle with a sidecar;
- (e) a motor car or tri-car of cylinder capacity not exceeding 450cc;
- (f) a motor car or tri-car of cylinder capacity exceeding 450cc but not exceeding 999cc;
- (g) a motor car or tri-car of cylinder capacity exceeding 999cc but not exceeding 1,199cc; and
- (h) a motor car or tri-car of cylinder capacity exceeding 1,199cc.

(3) The rates payable under sub-paragraph (1) may be increased—

- (a) where other councillors or committee members are conveyed in the same vehicle on the business of the council, by an additional rate per mile determined by the council for the carriage of each additional passenger;
- (b) by not more than the amount of any expenditure incurred on tolls, ferries or parking fees; or
- (c) in the case of an absence overnight from the usual place of residence, by an amount determined by the council for garaging a motor car, tri-car, or a motor vehicle of any other type, but not exceeding the amount actually paid by the councillor or committee member.

(4) For the purpose of this paragraph, cylinder capacity shall be calculated in the manner prescribed by regulation 43 of the Road Vehicles (Registration and Licensing) Regulations 2002(a), provided that where the engine of a car has been rebored the calculation shall be based on the engine as it was when new.

SCHEDULE 2

regulation 7(1)(b)

RULES WITH RESPECT TO THE PAYMENT OF SUBSISTENCE ALLOWANCES

1. Subsistence allowances shall be payable in respect of both an absence involving an absence overnight from the usual place of residence and an absence not involving an absence overnight from the usual place of residence.

2.—(1) The rates of subsistence allowance not involving an absence overnight from the usual place of residence shall be determined by the council in respect of the time specified in sub-paragraph (3).

(2) Where breakfast, lunch, tea or evening meal is taken on a train the reasonable cost of the meal (including value added tax) may be reimbursed in full, in respect of the time specified in sub-paragraph (3).

(3) The meals allowances and the time away from home specified for the purposes of sub-paragraph (1) are—

- (a) breakfast allowance: an absence of four hours away from the normal place of residence or where the council permits, a lesser period, before 11 am;
- (b) lunch allowance: an absence of four hours away from the normal place of residence or where the council permits, a lesser period, including all of the period between 12 noon and 2 pm;
- (c) tea allowance: an absence of four hours away from the normal place of residence or where the council permits, a lesser period, including all of the period between 3 pm and 6 pm; and
- (d) evening meal allowance; an absence of four hours away from the normal place of residence or where the council permits, a lesser period, ending after 7 pm.

3. The rates of subsistence allowance for an absence overnight from the usual place of residence shall be determined by the council.

4. The rates determined in respect of an absence overnight from the usual place of residence shall cover a continuous period of absence of twenty-four hours.

5. For an absence overnight of a period less than twenty-four hours, an appropriate amount in respect of any meal allowance shall be deducted from the maximum rate determined.

6. Any rate determined shall be reduced by an appropriate amount in respect of any meal provided free of charge by any body during the period to which the allowance relates.

(a) S.I. 2002/2742

7.—(1) For an absence from the usual place of residence overnight in London or exceptionally in any other place in the British Isles approved by the Department, the rates may be increased by a supplementary allowance of such amount as the council may determine.

(2) For the purpose of this paragraph London means the City of London and the London Boroughs of Camden, Greenwich, Hackney, Hammersmith and Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster.

SCHEDULE 3

regulation 13

REGULATIONS REVOKED

Local Government (Travelling and Subsistence Allowances to Councillors) (No. 2) Regulations (Northern Ireland) 1973(a)

Councillors (Travelling and Subsistence Allowances) (Amendment) Regulations (Northern Ireland) 1979(b)

Local Government (Travelling and Subsistence Allowances to Councillors) (Amendment) Regulations (Northern Ireland) 1981(c)

Councillors (Travelling and Subsistence Allowances) (Amendment) Regulations (Northern Ireland) 1997(d)

Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999(e)

Councillors (Travelling and Subsistence Allowances) (Amendment) Regulations (Northern Ireland) 2003(f)

Local Government (Payments to Councillors) (Amendment) Regulations (Northern Ireland) 2007(g)

(a) S.R. & O. (N.I.) 1973 No. 366
(b) S.R. 1979 No. 25
(c) S.R. 1981 No. 114
(d) S.R. 1997 No. 431
(e) S.R. 1999 No. 449
(f) S.R. 2003 No. 125
(g) S.R. 2007 No. 168

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the payment of allowances to councillors under section 31(1), (3), (4) and section 43(2) of the Local Government Finance Act (Northern Ireland) 2011 (2011 c.10 (N.I.)).

The Regulations are divided into three Parts, with three Schedules.

Part 1 deals with citation and commencement of the Regulations, and interpretation of some of the terms used in the Regulations.

Part 2 deals with a council's scheme of allowances and details the allowances payable to councillors.

Regulation 3 requires a council to make a scheme for the payment of allowances to councillors and committee members in respect of each year.

Regulation 4 requires a scheme to provide for the payment of a basic allowance for, or in relation to anything done in connection with, service as a councillor, including an approved duty.

Regulation 5 requires a scheme to provide for the payment of an allowance (in addition to the basic allowance) if the council is satisfied that a councillor has special responsibilities in relation to the discharge of the council's functions.

Regulation 6 provides for payment under a council's scheme of an allowance to councillors towards such expenses of arranging for the care of their children or dependants as are necessarily incurred in the carrying out of an approved duty.

Regulation 7 provides for payment under a council's scheme of allowances to councillors and committee members where expenditure on travel or on subsistence is necessarily incurred in the carrying out of an approved duty. The rules for payment of travel and subsistence are set out in Schedules 1 and 2 respectively.

Part 3 deals with the administrative arrangements of the scheme.

Regulation 8 requires a councillor entitled to a dependants' carers' allowance, or a councillor or committee member entitled to a travel or subsistence allowance, to make a claim for such an allowance in such form as the council may direct to the clerk of the council.

Regulation 9 requires a claim for dependants' carers' allowance, or travel or subsistence allowances, to be submitted within 3 months from the date on which the approved duty to which the claim relates was performed.

Regulation 10 requires a council to keep a record of the payments made by it in accordance with the Regulations or any scheme made pursuant to the Regulations. The record must provide the name of the recipient and the amount and nature of each payment and be available, at all reasonable times, for inspection free of charge.

Regulation 11 requires a council to arrange for the scheme of payments, as soon as practicable after its making or amendment, to be published on its website and to make such other arrangements for the scheme's publication within the council's district as it considers appropriate. As soon as practicable at the end of the year to which a scheme relates, a council is required to publish on its website the total paid in that year to each councillor in respect of basic allowance, special responsibility allowance and dependants' carers' allowance, and the total paid in that year to each councillor or committee member in respect of travel and subsistence.

Regulation 12 makes consequential amendments to the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009.

Regulation 13 revokes the Regulations specified in Schedule 3, with the saving that the revoked provisions shall continue to have effect in relation to claims made for allowances or other payments in respect of duties performed before these Regulations come into operation.

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