

2001 No. 1280

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities (Members' Allowances) (England)
Regulations 2001**

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| <i>Made</i> - - - - - | <i>1st April 2001</i> |
| <i>Laid before Parliament</i> | <i>2nd April 2001</i> |
| <i>Coming into force</i> - - | <i>4th May 2001</i> |

The Secretary of State for the Environment, Transport and the Regions in exercise of the powers conferred on him by section 177(2) of the Local Government Act 1972(a), and sections 18 and 190(1) of the Local Government and Housing Act 1989(b), and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Authorities (Members' Allowances) (England) Regulations 2001 and shall come into force on 4th May 2001.

(2) These Regulations extend to England only(c).

Interpretation

2. In these Regulations—

“the 1972 Act” means the Local Government Act 1972;

“the 1991 Regulations” means the Local Authorities (Members' Allowances) Regulations 1991(d);

“allowance scheme” means a scheme for allowances made pursuant to Part II of the 1991 Regulations;

“alternative arrangements” has the same meaning as in Part II of the Local Government Act 2000;

“basic allowance” has the same meaning as in regulation 8 of the 1991 Regulations;

“executive” has the same meaning as in Part II of the Local Government Act 2000;

“executive arrangements” has the same meaning as in Part II of the Local Government Act 2000;

“independent remuneration panel” means a panel or joint panel established under regulation 4 of these Regulations;

“political group” shall be construed in accordance with section 15 of the Local Government and Housing Act 1989;

(a) 1972 c. 70.

(b) 1989 c. 42; section 18 is amended by section 99 of the Local Government Act 2000 (c. 22).

(c) The Secretary of State's functions under the Local Government Act 1972 and the Local Government and Housing Act 1989, so far as exercisable in relation to Wales are transferred to the National Assembly for Wales; see article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), and section 106(3) of the Local Government Act 2000.

(d) 1991/351; relevant amending instruments are 1995/553, 1996/469 and 2000/622 and 623.

“special responsibility allowance” has the same meaning as in regulation 9 of the 1991 Regulations, and

“the Association of London Government” means the body known by that name and established in April 2000 as a joint committee by all the London Borough councils and the Corporation of the City of London.

Duty to have regard to recommendations

3. Before they make or amend an allowance scheme in accordance with regulation 7 of these Regulations or regulation 6 or 7 of the 1991 Regulations, a district, county or London borough council shall have regard to the recommendations which have been made in relation to them by an independent remuneration panel.

Independent remuneration panels

4.—(1) An independent remuneration panel may be established—

- (a) by a district, county or London borough council and shall exercise the functions specified in regulation 5 in respect of that authority;
- (b) jointly by any district, county or London borough council and shall exercise the functions specified in regulation 5 in respect of the authorities which established it, or
- (c) by the Association of London Government, and shall exercise the functions specified in regulation 5 in respect of any London borough councils.

(2) An independent remuneration panel shall consist of at least three members none of whom may also be a member of a district, county or London borough council.

(3) A person may not be a member of an independent remuneration panel if he is disqualified from being or becoming a member of a district, county or London borough council.

(4) A district, county or London borough council may pay the expenses incurred by an independent remuneration panel established under paragraph (1)(a) or (b) in carrying out its functions and may pay the members of the panel such allowances or expenses as the district, county or London borough council for which it exercises functions may determine.

(5) The Association of London Government may pay the expenses incurred by an independent remuneration panel established under paragraph (1)(c) in carrying out its functions and may pay the members of the panel such allowances or expenses as the Association of London Government may determine.

Recommendations of panels

5.—(1) An independent remuneration panel shall produce a report in relation to the members of each district, county or London borough council in respect of which it exercises functions making recommendations—

- (a) as to the amount of basic allowance which should be payable to such members;
- (b) as to the duties in respect of which such members should receive a special responsibility allowance and as to the amount of such an allowance, and
- (c) as to whether the allowance scheme of such district, county or London borough council should include allowances in respect of the expenses of arranging for the care of children or dependants of such members in accordance with regulation 8, and as to the amount of such allowances.

(2) A copy of a report made under paragraph (1) shall be sent to each district, county and London borough council in respect of which recommendations have been made.

(3) An independent remuneration panel may make different recommendations in relation to each of the authorities for which it exercises functions.

Publicity for recommendations of panels

6.—(1) Where a district, county or London borough council receives a copy of a report made to them by an independent remuneration panel in accordance with regulation 5(1), they shall, as soon as reasonably practicable after receiving the report—

- (a) ensure that copies of that report are available for inspection by members of the public at the principal office of the authority, at all reasonable hours, and

- (b) publish in one or more newspapers circulating in their area, a notice which—
 - (i) states that they have received recommendations from an independent remuneration panel in respect of their allowance scheme;
 - (ii) describes the main features of that panel’s recommendations and specifies the recommended amounts of each allowance mentioned in its report in respect of that authority;
 - (iii) states that copies of the panel’s report are available at the principal office of the authority for inspection by members of the public at such times as may be specified by the authority in the notice, and
 - (iv) specifies the address of the principal office of the authority at which such copies are made available.

(2) A district, county or London borough council shall supply a copy of a report sent to them by an independent remuneration panel in accordance with regulation 5(1) to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

Transitional provision for revocation of allowance schemes

7.—(1) Where an independent remuneration panel has produced a report in accordance with regulation 5, a district, county or London borough council may, notwithstanding regulation 7(1) of the 1991 Regulations, revoke an allowance scheme—

- (a) once at any time before 1st April 2002 in consequence of the coming into force of section 18(1A) of the Local Government and Housing Act 1989, and
- (b) at any time once that council has begun to operate—
 - (i) executive arrangements, including where they are being operated in place of existing alternative arrangements;
 - (ii) alternative arrangements, including where they are being operated in place of existing executive arrangements, or
 - (iii) different executive arrangements which involve an executive which takes a different form.

(2) When a scheme is revoked in accordance with paragraph (1) the district, county or London borough council shall before the revocation takes effect make a further scheme for the period beginning with the date on which the revocation takes effect.

(3) A further scheme made under paragraph (2) shall include provision for an appropriate adjustment in respect of any basic allowance or special responsibility allowance which—

- (a) has already been paid under the previous scheme in respect of the remainder of the year from which the further scheme has effect, or
- (b) is to be paid in respect of any part of the year during which the previous scheme had effect.

Childcare and dependants carers’ allowances

8. An allowance scheme may include provision for the payment to members of district, county or London borough councils of allowances in respect of such expenses of arranging for the care of their children or dependants as are necessarily incurred in—

- (a) the attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority make appointments or nominations, or of any committee or sub-committee of such a body;
- (b) the attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and one or more local authority within the meaning of section 270(1) of the 1972 Act, or a sub-committee of such a joint committee provided that—
 - (i) where the authority are divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited, or
 - (ii) if the authority are not so divided, it is a meeting to which at least two members of the authority have been invited;
- (c) the attendance at a meeting of any association of authorities of which the authority are a member;

- (d) the attendance at a meeting of the executive or a meeting of any of its committees, where the authority are operating executive arrangements;
- (e) the performance of any duty in pursuance of any standing order made under section 135 of the 1972 Act requiring a member or members to be present while tender documents are opened;
- (f) the performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises, and
- (g) the performance of any duty in connection with arrangements made by the authority for the attendance of pupils at school approved for the purposes of section 342 (special schools) of the Education Act 1996(a).

Publicity for allowance schemes

9.—(1) Regulation 26A of the 1991 Regulations shall not apply to district, county or London borough councils.

(2) After regulation 26A (2) of the 1991 Regulations there shall be inserted—

“(3) This regulation is subject to regulation 9 of the Local Authorities (Members’ Allowances) (England) Regulations 2001.”

(3) A district, county or London borough council shall, as soon as reasonably practicable after the making or amendment of an allowance scheme make arrangements for its publication by—

- (a) ensuring that copies of the scheme are available for inspection by members of the public at the principal office of the authority, at all reasonable hours, and
- (b) publishing in one or more newspapers circulating in their area, a notice which—
 - (i) states that the authority have made or amended a scheme for allowances and specifies the period of time for which the scheme has effect;
 - (ii) describes the main features of the scheme and specifies the amounts of each allowance mentioned in that scheme;
 - (iii) states that in making or amending the scheme, the authority complied with their functions in accordance with regulation 3 of these regulations in having regard to the recommendations of an independent remuneration panel;
 - (iv) describes the main features of that panel’s recommendations and specifies the recommended amounts of each allowance mentioned in its report in respect of that authority;
 - (v) states that copies of the scheme are available at the principal office of the authority for inspection by members of the public at such times as may be specified by the authority in the notice, and
 - (vi) specifies the address of the principal office of the authority at which such copies are made available.

(4) A district, county or London borough council shall supply a copy of the scheme to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

(5) As soon as reasonably practicable after the end of a year to which a scheme relates, a district, county or London borough council shall make arrangements for the publication within the authority’s area of the total sum paid by them in the year under the scheme to each member in respect of each of the following—

- (a) basic allowance;
- (b) special responsibility allowance;
- (c) attendance allowance, and
- (d) allowances in respect of arranging for the care of children or dependants in accordance with regulation 8.

(a) 1996 c. 56.

Special responsibility allowances

10. In regulation 9 (1) (special responsibility allowance) of the 1991 Regulations, after paragraph (a) there is inserted—

“(aa) membership of an executive where the authority are operating executive arrangements within the meaning of Part II of the Local Government Act 2000;”

Definition of “approved duty”

11.—(1) For regulation 16 (definition of “approved duty”) of the 1991 Regulations, there shall be substituted—

“16.—(1) For the purposes of section 173 to 176 of the 1972 Act “approved duty” means—

- (a) any of the duties specified in regulation 10(3) (a) to (c) and (3A); and
- (b) any other duty approved by the body, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the body, or of any of its committees or sub-committees.

(2) For the purposes of section 174 of the 1972 Act “approved duty” includes, in addition to the duties specified in paragraph (1) of this regulation, any duty for the purpose of, or in connection with, the discharge of the functions of an executive, where the authority are operating executive arrangements within the meaning of Part II of the Local Government Act 2000.”

Signed by authority of the Secretary of State
for the Environment, Transport and the Regions

Hilary Armstrong
Minister of State,

1st April 2001

Department of the Environment, Transport and the Regions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 18 of the Local Government and Housing Act 1989 (“the 1989 Act”) as amended by section 99 of the Local Government Act 2000. The Local Authorities (Members’ Allowances) Regulations 1991 (“the 1991 Regulations”), also made under section 18 of the 1989 Act, remain in force.

These Regulations apply to district, county and London borough councils and provide that they must have regard to the recommendations of independent remuneration panels in relation to allowance schemes made under the 1991 Regulations.

Regulation 3 provides that authorities must have regard to the recommendations of an independent remuneration panel established under regulation 4. All panels must consist of at least three members, none of whom may be a member of such an authority. The panels are required to produce reports making recommendations in respect of allowances on the matters specified in regulation 5, and under regulation 6, authorities must publicise the recommendations of those panels.

Transitional provision is made under regulation 7 enabling authorities to revoke or amend an existing allowance scheme in order to give effect to any changes necessary as a consequence of the coming into force of section 18(1A) of the 1989 Act, or any alteration in the arrangements of authorities pursuant to Part II of the Local Government Act 2000.

Under regulation 8, an allowance scheme may include provision for the payment to members of allowances in respect of expenses of arranging for the care of children or dependants in order to conduct the duties specified in that regulation.

Regulation 9 requires authorities to publicise the allowance schemes made under the 1991 Regulations, and regulations 10 and 11 make amendments to the 1991 Regulations in respect of allowances for the duties of members of an authority’s executive (*see* Part II of the Local Government Act 2000).

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