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## EXPLANATORY NOTE

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

Sections 173, 175, 177 and 178 of the Local Government Act 1972 (“the 1972 Act”) provide powers, respectively, for the Secretary of State to:

- prescribe an amount in respect of an attendance allowance or a financial loss allowance payable for the performance of an approved duty;
- prescribe a body to which section 175 (Allowances for attending conferences and meetings) applies;
- specify duties in relation to a member of a body for the purpose of the definition of “approved duty” in sections 173 to 176 of the 1972 Act;
- make regulations as to the manner in which sections 173 to 176 of the 1972 Act are to be administered.

These powers are now vested in the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999.

Section 100 of the Local Government Act 2000 (“the 2000 Act”) provides for the National Assembly for Wales to make provision, by regulations, with respect to allowances payable to members of community councils and travelling and subsistence allowances payable to members of authorities which it may prescribe.

Regulation 3 prescribes community councils as relevant authorities for the purposes of section 100(1) of the 2000 Act.

Regulation 5 prescribes £32.46 for the purposes of section 173(1) of the 1972 Act (Attendance allowance) as the maximum sum payable for any period not exceeding 24 hours and limits the number of such payments in any 24 hours to one.

The payment of attendance allowance is also prohibited where a member is entitled to financial loss allowance (in accordance with section 173 of the 1972 Act) or where such a payment would be contrary to any enactment.

Regulation 6 prescribes amounts for the purposes of section 173(4) of the 1972 Act (Financial loss allowance):

- (a) £30.05 for a period not exceeding four hours;
- (b) £60.11 for a period exceeding four hours but not exceeding twenty four hours;
- (c) £60.11 plus such amount as is payable under (a) or (b) as appropriate for a period exceeding twenty-four hours.

Regulation 7 requires (subject to Regulations 5 and 6) authorities to make provision in relation to allowances under Part II for an annual adjustment of those allowances (effective from 1st April in each year) by reference to the figure published for the previous year for the Average Male Non-Manual Wage for Wales index in the New Earnings Survey published annually by the Office of National Statistics.

Regulation 8 provides for a member to choose to forgo any part of their entitlement under these Regulations.

Regulation 9 sets out those duties which amount to an “approved duty” for the purposes of sections 173 to 176 of the 1972 Act.

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

Regulation 10 places financial restrictions on allowances under section 175 of the 1972 Act (allowances for attending conferences and meetings) by limiting the maximum sum payable to £32.46 for any period not exceeding twenty four hours.

Regulation 11 provides for payment of travel or subsistence to members, at rates to be determined each year. Those rates are to be linked to rates payable to Members of the National Assembly for Wales in so far as they shall not exceed rates received by Assembly Members. The exception to this is where on the day before the coming into force of these Regulations the rates paid by an authority are in excess of the rate of the equivalent allowance payable to members of the National Assembly for Wales. In such circumstances the rates paid by the authority may continue at that level but shall not be increased until the equivalent allowance payable to members of the National Assembly for Wales is greater than that paid by the authority. Travel and subsistence claims (except claims relating to travel by private motor vehicle) are to be made on an “actual” basis and must be accompanied by relevant receipts for expenditure incurred, subject to any requirement or limitation determined by an authority. A member cannot claim allowances under Regulation 11 where any approved duty is performed within their community or community council area as appropriate.

Regulation 12 provides for all claims made for attendance allowance, travel allowance, subsistence allowance or financial loss allowance to be accompanied by a statement that the claimant has not and will not make any other claim in respect of the matter to which the claim relates. It also prevents payments under section 176 of the 1972 Act where payments are made under these Regulations.

Regulation 13 requires every authority to keep a record of any payments made in accordance with these Regulations, giving details of the recipient and the nature of the payment. That information should be available for inspection (free of charge) by any local government elector. Copies of the information may be obtained for payment of a reasonable fee to an authority.

In accordance with Regulation 14 as soon as practicable after the end of a financial year each authority shall publish details of the total sum paid under these Regulations to each member in respect of attendance basic allowance and financial loss allowance.

Regulation 15 provides that the Local Authorities (Members' Allowances) Regulations 1991 (“the 1991 Regulations”) and the Local Authorities (Members Allowances) (Amendment) (Wales) Regulations 2001 (“the 2001 Regulations”) continue to have effect in relation to claims for duties predating 1st April 2003. Subject to certain provisions in these Regulations the 1991 and 2001 Regulations are revoked. Regulation 15 disapplies section 174 of the 1972 Act in its application to Wales.