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STATUTORY RULES OF NORTHERN IRELAND

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**2019 No. 174**

**LOCAL GOVERNMENT**

**The Local Government (Payments to Councillors) Regulations (Northern Ireland) 2019**

*Made* - - - - *9th September 2019*

*Coming into force* - - *1st October 2019*

The Department for Communities<sup>(1)</sup> 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<sup>(2)</sup>.

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) 2019 and shall come into operation on 1st October 2019.

**Interpretation**

2. In these Regulations—

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

“the 2014 Act” means the Local Government Act (Northern Ireland) 2014<sup>(3)</sup>

“approved duty” means any of the following duties—

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(1) Formerly known as the Department for Social Development; see the Departments Act (Northern Ireland) 2016 c.5 (NI). Article 8 of and Schedule 5 to the Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016 No. 76) transferred functions to the Department for Communities which were previously exercisable by the Department of the Environment.

(2) 2011 c.10 (N.I.), now vested in the Department for Communities S.R. 2016 No.76

(3) 2014 c.8 (N.I.)

- (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
- (b) the doing of anything approved by a council or a joint committee, for the purpose of, or in connection with, the discharge of the functions of the council, or any of its committees or sub-committees, joint committees or any of its sub-committees;

“committee” or “joint committee” means a committee or joint committee appointed under section 11(1) of the 2014 Act;

“committee member” means a person who is a member of a committee appointed under Section 11 or 12 of the 2014 Act; but is not a member of the council that appointed that committee;

“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 that 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 carrying out the duties of a councillor.

(2) The amount of basic allowance shall be determined by the council and shall be the same for each councillor.

(3) 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.

### **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) The amount of special responsibility allowance paid to each councillor shall be determined by the council; but shall not exceed one fifth of the department’s limit on special responsibility allowances for that council.

(3) 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) Subject to paragraph (5), 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).

(5) 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.

(6) 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 for each performance of approved duty.

### **Travel and subsistence allowances**

7.—(1) Subject to paragraph (2), a councillor or committee member shall be entitled to receive payment by way of travel and subsistence allowance as determined by the council 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.

(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 dependants' carers' allowance, in such form as the council may direct, 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 travel and subsistence, in such form as the council may direct, 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;
- (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.

## **Revocations and savings**

**12.**—(1) Subject to paragraph (2) the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012(4) are revoked.

(2) The Regulations mentioned in paragraph (1) 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.

Sealed with the Official Seal of the Department for Communities on 9th September 2019



*Anthony Carleton*  
A senior officer of the Department for  
Communities

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

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## 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.

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 service as a councillor, within the basic allowance limit set by the Department.

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. The Department sets maximum limits for the total amount a council may spend on special responsibility allowances and a subsequent limit that any councillor may only receive up to one fifth of that amount. The maximum limits are based on the population size of each council.

Regulation 6 requires a scheme to provide for an allowance to councillors towards expenses for the care of their children or dependants as are necessarily incurred in the carrying out of an approved duty.

Regulation 7 requires a scheme to provide for payment to councillors and committee members for expenditure on travel or subsistence as necessarily incurred in the carrying out of an approved duty.

Part 3 deals with administrative arrangements.

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 as the council may direct.

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.

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

Regulation 12 revokes the previous Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012; 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.