
STATUTORY INSTRUMENTS

1991 No. 397

**The Local Authorities Etc. (Allowance)
(Scotland) Regulations 1991**

PART II

LOCAL AUTHORITY SCHEMES FOR MEMBERS' ALLOWANCES

Application of Part II

3. This Part applies to any local authority.

Allowance schemes

4.—(1) Before 1st April 1991 each authority shall make a scheme in accordance with these Regulations for the payment of allowances in respect of the year commencing on that date and subsequent years.

(2) When a scheme is revoked in accordance with regulation 5(1), an authority shall before the revocation takes effect make a further scheme for the period beginning with the date on which the revocation takes effect.

Amendment of schemes

5.—(1) A scheme made under this Part may be amended at any time but may only be revoked with effect from the beginning of a year.

(2) Where an amendment is to be made which relates to an allowance payable for the year in which the amendment is made, the scheme shall provide—

- (a) if the amendment affects such an allowance as is mentioned in regulation 6 or 7, that in relation to each of the periods—
 - (i) beginning with 1st April in that year and ending with the day before that on which the first amendment in that year takes effect; or
 - (ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with 31st March in that year,

the entitlement to such an allowance shall be to payment of such part of the amount of the allowance under the scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year;

- (b) if the amendment relates to such an allowance as is mentioned in regulation 8, that the entitlement to such an allowance shall be to payment of the amount of the allowance under the scheme as it has effect when the duty is carried out.

Basic allowances

6.—(1) A scheme made under this Part shall provide for the payment for each year to which the scheme relates of an allowance (“basic allowance”) to each member of the authority who is a councillor; and the amount of such allowance shall be the same for each such member.

(2) The scheme shall provide that, where the term of office of a member begins or ends otherwise than at the beginning or end of a year, his entitlement shall be to payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office as member and councillor subsists bears to the number of days in that year.

(3) Where a scheme is amended as mentioned in paragraph (2) of regulation 5 and the term of office of a member who is a councillor does not subsist throughout the whole of the period mentioned in sub-paragraph (a) of that paragraph, the scheme shall provide that the entitlement of any such member under this regulation shall be to payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as member and councillor subsists in that period bears to the number of days in the period.

Special responsibility allowances – authorities

7.—(1) A scheme made under this Part shall provide, in accordance with paragraph (2), for the payment for each year to which that scheme relates of an allowance (“special responsibility allowance”) to such members of the authority who are councillors as have such special responsibilities in relation to the authority as are specified in the scheme and are within one or more of the following categories:—

- (a) acting as leader or deputy leader of a political group within the authority;
- (b) presiding at meetings of a committee or a sub-committee of the authority;
- (c) representing the authority at meetings of, or arranged by, any other body;
- (d) membership of a committee or a sub-committee of the authority which meets with exceptional frequency or for exceptionally long periods;
- (e) acting as the spokesman of a political group on a committee or sub-committee of the authority;
- (f) such other activities in relation to the discharge of the authority’s functions as require an amount of time and effort equal to or greater than any one of the activities mentioned in sub-paragraphs (a) to (e) (whether or not that activity is specified in the scheme).

(2) The scheme shall—

- (a) specify the amount of every special responsibility allowance, which need not be the same; and
- (b) provide that, where—
 - (i) members of an authority are divided into at least two political groups; and
 - (ii) either a majority of members of the authority, or half of such members and the chairman of the authority, belong to the same political group (“the controlling group”),

a special responsibility allowance shall be paid to at least one person who is not a member of the controlling group and has special responsibilities described in paragraph (1)(a) or (e); and

- (c) provide that, where a member does not have throughout a year any such special responsibilities as entitle him to a special responsibility allowance, his entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as

the number of days during which he has such special responsibilities bears to the number of days in that year; and

- (d) provide that, where a scheme is amended as mentioned in paragraph (2) of regulation 5 and a member does not have throughout the whole of any period mentioned in sub-paragraph (a) of that paragraph any such special responsibilities as entitle him to a special responsibility allowance, his entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he has such special responsibilities bears to the number of days in the period.

Attendance allowance

8.—(1) A scheme made under this Part may provide for the payment to each member of the authority who is a councillor of an allowance (“attendance allowance”) in respect of—

- (a) the carrying out of such of the duties referred to in paragraph (2) and not excluded by paragraph (3) as may be specified in the scheme; and
- (b) the time spent in travelling to and from the location at which any such duty is performed,

(2) The duties referred to in this paragraph are attendance at—

- (a) a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments, elections or nominations, or of any committee or sub-committee of such a body;
- (b) any other meeting the holding of which is authorised by the authority, or a committee or sub-committee of the authority, provided that—

- (i) where the authority is 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 is not so divided, it is a meeting to which at least two members of the authority have been invited;

- (c) a meeting of any association of authorities of which the authority is a member.

(3) The duties excluded by this paragraph are those in respect of which the member receives remuneration otherwise than under a scheme.

(4) The amount of the attendance allowance shall be specified in the scheme and may vary according to the time of day and the duration of the duty; but shall be the same for all members of the authority entitled to the allowance in respect of a duty of any description at the same time of day and of the same duration.

(5) The scheme shall provide that a member shall not be entitled to payment of an attendance allowance—

- (a) in respect of his attendance at any conference or meeting in relation to which he is entitled to a payment in the nature of an attendance allowance under section 47 of the 1973 Act; or
- (b) if such payment would be contrary to a provision made by or under any enactment.

(6) The scheme may provide that a member shall not be entitled to payment of more than one attendance allowance in respect of any period of 24 hours beginning at such time as the authority may determine.

Amount of allowances etc.

9. A scheme made under this Part shall specify in respect of any year to which it relates—

- (a) the amount of the entitlement by way of basic allowance;

- (b) the amount of the entitlement by way of special responsibility allowance; and where different amounts apply to different responsibilities, the amount applicable to each;
- (c) the rates applicable to payments by way of attendance allowance (where the scheme provides for that allowance).

Elections

10. A scheme made under this Part shall provide that a member may by notice in writing given to the proper officer of the local authority, elect to forgo any part of his entitlement to an allowance under the scheme.

Claims and payments

11.—(1) A scheme made under this Part shall provide that a claim for an attendance allowance under the scheme shall be made within two months of the date on which the duty in respect of which the entitlement to the allowance arises is carried out.

(2) Nothing in paragraph (1) shall prevent a local authority from making a payment where the allowance is not claimed within the period specified in the scheme.

(3) A scheme made under this Part 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.