

Local Government Policy Division

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Your reference:

Our references: DO1-10-5272

DO1-10-4672

Date: 17 December 2010

Dear Consultee

**CONSULTATION ON DRAFT REGULATIONS TO BE MADE UNDER
PART 3 OF THE LOCAL GOVERNMENT FINANCE BILL –
PAYMENTS TO COUNCILLORS**

The Department is seeking views on the following draft regulations:

- the draft Local Government (Payments to Councillors) Regulations (Northern Ireland) 2011 (**Annex A**), which the Department proposes to make under the powers conferred by section 31(1), (3) and (4) of the forthcoming Local Government Finance Act (Northern Ireland); and
- the draft Local Government (Councillors' Remuneration Panel) Regulations (Northern Ireland) 2011 (**Annex B**), which the Department proposes to make under the powers conferred by section 35 of the forthcoming Local Government Finance Act (Northern Ireland).

Comments should be sent to the Department by **24 February 2011**.

Background

In March 2005 the Minister with responsibility for local government announced the setting up of an independent review of councillors' remuneration in Northern Ireland. The Councillors' Remuneration Working Group (CRWG) was established to conduct this review and it included representatives from the National Association of Councillors, Northern Ireland Local Government Association, trade unions, business and voluntary sectors together with an independent member. The group reported in June 2006.

Among the CRWG's recommendations were:

- the introduction of provisions requiring councils to make and publish a scheme of allowances; and
- the establishment of an independent remuneration panel for Northern Ireland to make recommendations to the Minister on councillors' allowances.

These recommendations require primary legislation and the Department has made provision for this in the Local Government Finance Bill. The Local Government Finance Bill also makes provision to repeal all of the current provisions dealing with payments to councillors, and re-enact them, with some amendments, in the one Bill.

The Local Government Finance Bill was introduced in the Assembly on 19 April 2010. It is expected that it will have completed its Assembly passage in February 2011 and come into operation on 1 April 2011.

Draft Local Government (Payments to Councillors) Regulations (Northern Ireland) 2011

The draft Local Government (Payments to Councillors) Regulations (Northern Ireland) 2011 will replace the following regulations:

- the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999 (SR 1999 No.449) as amended^a; and
- the Local Government (Travelling and Subsistence Allowances to Councillors) (No. 2) Regulations (Northern Ireland) 1973 (SR 1973 No.366) as amended^b.

a. Amended by SR 2007 No.168

b. Amended by SR 1979 No.25, SR 1981 No.144, SR 1997 No.431 and SR 2003 No.125

The draft Local Government (Payments to Councillors) Regulations (Northern Ireland) 2011 are in three parts.

Part 1 (draft regulations 1 and 2) deals with the title and the commencement of the regulations, and provides an interpretation of some of the terms used in the regulations. Part 2 (draft regulations 3 to 7) deals with the actual scheme of allowances and Part 3 (draft regulations 8 to 13) deals with the administrative arrangements for payments to councillors.

Part 1

Draft regulation 3 introduces a new provision requiring a council to make a scheme of the allowances that council will pay to councillors each year. These allowances are the basic allowance, special responsibility allowance, dependants' carers' allowance and travel and subsistence allowances. These allowances form part of the draft regulations. There is separate provision in primary legislation to enable a council to meet the expenses of the office of its chairperson or vice-chairperson. Allowances paid to the chairperson or vice-chairperson of the council would also be included in the scheme of allowances.

The Department determines the maximum amount that may be paid for the basic allowance, special responsibility allowance and dependants' carers' allowance. It is for each council to determine the amount it will pay for each of these allowances within that maximum.

Councillors receive a basic allowance in recognition of their representational role and to assist with incidental costs such as the use of their homes and private telephone. Draft regulation 4 brings forward the current provisions regarding the basic allowance, without amendment.

Special responsibility allowance is paid where the council is satisfied that the councillor has special responsibilities in relation to the discharge of the work of the council. It is, therefore, meant to be paid to those councillors undertaking significant additional work on behalf of their council.

Draft regulation 5 replaces the current provisions regarding the special responsibility allowance with the following amendments.

- Special responsibility allowance may only be paid to no more than half of the councillors of a council. This is to reinforce that this allowance should be paid only where significant additional work is involved.
- Payment of special responsibility allowance to the chairperson or the vice-chairperson, where applicable, is excluded when calculating how many councillors may be entitled to payment of this allowance. The number of councillors on a council varies from 15 to 51. The special responsibility allowance paid to the chairperson and vice-chairperson has been excluded from the calculation of the maximum 50% because it could restrict the flexibility of smaller councils.
- No councillor may receive more than one special responsibility allowance.

Dependants' carers' allowance is designed to help councillors who incur expenses for the care of children or dependants while they carry out approved duties. Draft regulation 6 brings forward the current provisions regarding the dependants' carers' allowance, with minor drafting changes.

Draft regulation 7 replaces the current provisions regarding payments for travel and subsistence. As is currently the case, applications for travel and subsistence, other than travel by means of a private motor vehicle, must be made with receipts of the expenditure incurred.

Under draft regulation 7, the amount of travel and subsistence allowance is to be paid in accordance with the rules set out in Schedules 1 and 2 to the regulations. Paragraph 6 of Schedule 1 specifies the different categories of motor vehicle for which an allowance may be claimed. These classifications have been brought forward without amendment from the Local Government (Travelling and Subsistence Allowances to Councillors) (No. 2) Regulations (Northern Ireland) 1973 (as amended), and include three categories of motor cycle and four categories of motor car. The Department is considering a simplification of the scheme, which would introduce a single category for all motor cycles and a single category for all motor cars.

Draft regulations 8 and 9 require a councillor entitled to a dependants' carers' allowance or a travel or subsistence allowance to make a claim in such form as the council directs which must be submitted within 3 months of when the approved duty was performed. This is currently the case.

Draft regulation 10 requires a council to keep a record of the payments it makes, detailing the name of recipients, the amount of each payment, and the nature of each payment. Draft regulation 10 also provides that this record must be available, free of charge, for inspection at all reasonable times.

Draft regulation 11 requires a council to arrange for a copy of the scheme of payments to be published on its website, and elsewhere, as the council considers appropriate. This is a new provision, giving effect to the recommendation made by the CRWG in June 2006 that in the interests of greater transparency, councils should publish their scheme of allowances. The regulation also requires the council to publish on their website details of the payments made to councillors at the end of the year. Many councils in Northern Ireland already publish information about the allowances paid to councillors on their websites and the regulation will ensure that all councils adopt this practice.

Question 1

Do you agree that a special responsibility allowance should be made to no more than half of the councillors of a council? If you do not agree with this restriction, what alternative would you suggest?

Question 2

Should the special responsibility allowance paid to the chairman or the vice-chairman be excluded from the restriction of payment of that allowance to no more than half the members of a council?

Question 3

Do you agree that no councillor should be paid more than one special responsibility allowance?

Question 4

Do you support the Department's proposal to simplify the scheme for travel allowance by the introduction of a single category for all motor cycles and a single category for all motor cars?

Question 5

Do you support the proposal that councils should publish their scheme of allowances to councillors on the council website and, at the end of the year, the payments made to councillors?

If you do not agree, what alternatives would you propose to encourage transparency?

Draft Local Government (Councillors' Remuneration Panel) Regulations 2011

The draft Local Government (Councillors' Remuneration Panel) Regulations (Northern Ireland) 2011 make provision for the establishment of a remuneration panel to consider and make recommendations regarding the framework and level of allowances payable to councillors. This was also recommended by the CRWG in its report of June 2006. This would be new to Northern Ireland although there is an independent panel in Scotland (the Scottish Local Authorities Remuneration Committee) and in Wales (the Independent Remuneration Panel for Wales). The aim of establishing a panel is to improve the current arrangements by ensuring that allowances for councillors are considered impartially by persons independent of the Department and local government.

Draft regulations 3 and 4 provide for the composition of the panel and the tenure of the panel members. The panel would have a chairperson and at least two but not more than 4 members. They would be appointed by the Minister of the Environment for a term of up to 4 years. The chairperson and members would be eligible for re-appointment for a further term of up to 4 years. In the interests of best practice the Department intends to follow the public appointments process when appointing the Panel. Regulation 3(2) excludes a person who is a member of the Northern Ireland Assembly, a member of the Westminster

or European Parliaments, a member of a council or anyone who is disqualified from being a councillor from becoming a member of the Panel.

Draft regulation 5 makes provision that the chairperson is to preside at the meetings of the Panel and it is for the Panel to regulate its meetings.

Draft regulation 6 enables the Department to pay allowances and expenses to the Panel. It also requires the Department to make premises, support staff and services available to the Panel. Secretariat for the Panel will be provided by Local Government Policy Division.

Draft regulation 7 requires the Panel to comply with any directions issued by the Department. The Panel will, therefore, conduct its reviews in accordance with the directions given by the Minister of the Environment. These directions would include a deadline for submission of any report or recommendations to the Minister.

To ensure that councils provide any background information required by the Panel in its reviews, the draft regulation makes it clear that the Panel has the power to seek information and advice from any body or person when carrying out its functions.

Question 6

Do you agree with the proposed composition and tenure of the panel?

Question 7

Do you think that the regulations as drafted ensure sufficient impartiality and independence?

Human Rights

The Human Rights Act 1998 implements the European Convention on Human Rights. The 1998 Act makes it unlawful for any public authority to act in a way that is incompatible with these rights. We believe that the proposals in this consultation document are compatible with the Human Rights Act, but would welcome any views that you might have.

Equality

Under the terms of section 75 of the Northern Ireland Act 1998, the Department carried out screening for equality impact and is satisfied that the proposed legislation will not lead to discriminatory or negative differential impact on any of the section 75 groups. A copy of the screening form can be viewed, along with this letter and the draft regulations, on the Department's website <http://www.doeni.gov.uk/index/information>.

Regulatory impact assessment

The Department has not conducted a regulatory impact assessment as the proposed legislation does not give rise to any associated costs or savings on business, charities, social economy enterprises or the voluntary sector.

Rural Proofing

The Department has assessed the proposed measures and considers that there would be no differential impact in rural areas or on rural communities.

Freedom of Information Act 2000

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the attached **Annex C** on the confidentiality of consultations which will give you guidance on the legal position about any information given by you in response to this consultation.

Alternative format

This document may be made available in alternative formats. Please contact us to discuss your requirements, using any of the following methods.

Telephone: 028 9025 6091

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Comments

Your comments on questions 1 to 7, as well as your general views on these 2 sets of draft regulations should be sent by **24 February 2011** to Local Government Policy Division at the address on page 1 or by e-mail to LGPDConsultations@doeni.gov.uk. A response booklet detailing the questions is attached at **Annex D**.

Yours faithfully

BID Holliday

DICKSON HOLLIDAY

Addressees

All Northern Ireland District Councils
arc21
Age Concern
Archbishop of Armagh and Primate of all Ireland
Assembly Business Office
Assembly Departmental Committee
Assembly Library
Association for Public Service Excellence
Association of Local Government Finance Officers
Belfast Solicitors Association
Carers Northern Ireland
Chief Local Government Auditor
Chinese Welfare Association
Civic Forum
Civil Law Reform Division
Community Relations Council
Community Technical Aid
Confederation of British Industry
Courts and Tribunal Service
Departmental Library
Disability Action
District Councils
District Judge Magistrates Court – Laganside Courts
Equality Commission for NI
Executive Ministers and Junior Ministers
Federation of Small Businesses
Food Standards Agency
Gingerbread (NI)
Help the Aged (NI)
HM Council of County Court Judges
HM Revenue & Customs
Human Rights Commission
Judge McKibbin District Judge (Magistrates Court)
Law Centre (NI)
Leaders of Northern Ireland Political Parties
Legal Deposit Libraries
Local Government Staff Commission for Northern Ireland
Methodist Church in Ireland
MEPs
Ministry of Defence
MLAs

MPs
Men's Project
National Association of Councillors
NI Assembly, Committee for the Environment
NI Association of Citizens Advice Bureau
NI Chamber of Commerce and Industry
NIACRO
NIC/ICTU
NIPSA
Northern Ireland Association of Citizens Advice Bureaux
Northern Ireland Audit Office
Northern Ireland Chamber of Trade
Northern Ireland Committee – Irish Congress of Trade Unions
Northern Ireland Council for Ethnic Minorities
Northern Ireland Court Service
Northern Ireland Departments
Northern Ireland Gay Rights Association
Northern Ireland Judicial Appointments Commission
Northern Ireland Law Commission
Northern Ireland Local Government Association
Northern Ireland Local Government Officers' Superannuation Committee
Northern Ireland Office
Northern Ireland Ombudsman
Northern Ireland Political Parties
North South Ministerial Council – NI Secretariat
NWRWVG
OFMDFM Central Management Unit
OFMDFM Legislative Programme Secretariat
OFMDFM Machinery of Government Division
Participation & the Practice of Rights Project
Presbyterian Church in Ireland
Royal Society for the Protection of Birds
School of Law
Secretary - Catholic Bishops of Northern Ireland
Section 75 Groups
SOLACE
Staff Commission for Education & Library Boards
SWaMP2008
The Executive Council of the Inn of Court of NI
The General Consumer Council for Northern Ireland
The Law Society of NI
The NI Council for Voluntary Action
The Queens University of Belfast – School of Law

The Rainbow Project
The Speaker of the Assembly
University of Ulster – School of Law
Victims Groups and individuals
Women's Forum Northern Ireland
Youth Council for Northern Ireland

DRAFT STATUTORY RULES OF NORTHERN
IRELAND

2011 No. ***

LOCAL GOVERNMENT

Local Government (Payments to Councillors) Regulations
(Northern Ireland) 2011

Made - - - - - *****

Coming into operation - - - - - *****

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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) 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, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2011 and shall come into operation on ** * 2011.

Interpretation

2. In these Regulations—

“the 1973 Regulations” means the Local Government (Travelling and Subsistence Allowances to Councillors) Regulations (Northern Ireland) 1973(b);

“the 1999 Regulations” means the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999(c);

“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 the 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(d) or the local Government (Employment of Group Environment Health Staff) Order (Northern Ireland) 1994(e); or
- (b) the doing of anything approved by the council 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; and

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

(a) 2011 c.* (N.I.)
(b) S.R. 1973 No.366
(c) S.R. 1999 No. 449
(d) S.R. 1994 No. 497
(e) S.R. 1994 No. 498

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

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 in respect of each year.

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

- (a) special responsibility allowance;
- (b) dependants' carers' allowance; and
- (c) travel and subsistence allowance.

(3) 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.

(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) The amount of basic allowance shall be the same for each councillor.

(4) 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 a councillor has special responsibilities in relation to the discharge of the functions of a council.

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

(a) S.R. 1993 No. 278

(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 calculating the percentage the number is not a whole number).

(5) A special responsibility allowance paid to the chairman or vice-chairman of the council is excluded from the calculation in paragraph (4).

(6) A council should 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 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 shall be entitled to receive payment by way of

(a) travel allowance in accordance with the rules in Schedule 1; and, as the case may be;

(b) subsistence allowance in accordance with the rules in Schedule 2.

where expenditure on travelling 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 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.

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) that the amounts claimed are strictly in accordance with these Regulations;
- (c) that the care to which the claim relates has been provided;
- (d) that the costs to which the claim relates have necessarily been incurred; and
- (e) that the costs to which the claim refers have been paid by the councillor.

(2) A councillor entitled to an allowance under regulation 9 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 8 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; or
- (b) a person liable for rates in respect of any hereditament situated in that district; or
- (c) a representative of a person mentioned in subparagraph (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; and
- (d) travel and subsistence.

Revocations

12. The Regulations specified in Schedule 3 are revoked.

Savings

13. Notwithstanding the revocation of any provision of the 1973 Regulations or the 1999 Regulations by virtue of regulation 12 that provision shall continue to 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 of the Environment on ***** 2011.



Wesley Shannon
A senior officer of the Department of the Environment

SCHEDULE 1

Regulation 7(1)(a)

RULES WITH RESPECT TO THE PAYMENT OF TRAVELLING 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.

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 portorage of luggage; and
- (b) on sleeping accommodation engaged by the councillor 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 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-cab shall not exceed the rate which would have been applicable had the vehicle belonged to the councillor 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.

6.—(1) If a councillor 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), but shall not exceed such rates as the Department may determine;

(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 are conveyed in the same vehicle on the business of the council by an additional rate per mile determined by the council, but not exceeding such rate as the Department may determine for the carriage of each additional passenger;
- (b) by not more than the amount of any expenditure incurred on tolls, ferries or parking fees;
- (c) in the case of an absence overnight from the usual place of residence, by not more than the rate per night which the Department may from time to time determine for garaging a motor car, tri-car, or a motor vehicle of any other type.

(4) For the purpose of this paragraph a councillor's "private motor vehicle" includes a vehicle belonging to a family member or otherwise provided for his use.

7. For the purpose of the regulations "cubic centimetres 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), but shall not exceed such rates as the Department may determine.

(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, but shall not exceed such rates as the Department may determine.

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.

(a) S.I. 2002/2742

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.

7.—(1) For the 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 decide but not exceeding such amount as the Department 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 12

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. 1973 No.366
 (b) S.R. 1979 No.25
 (c) S.R. 1981 No.144
 (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) and (3) of the Local Government Finance Act (Northern Ireland) 2011 (2011 c.****) (“the Act”).

The Act repealed section 36 of the Local Government Act (Northern Ireland) 1972, which allowed the Department of the Environment to make regulations for payments to be made to councillors in respect of anything done in connection with service as councillors, and replaced it with section 31. In addition to minor and drafting amendments, section 31 made a number of changes of substance, requiring councils to make and publish schemes of allowances in accordance with regulations, and to make payments of allowances in accordance with its scheme, and with regulations made and guidance issued by the Department.

These Regulations revoke and replace, with amendments, the Local Government (Travelling and Subsistence Allowances to Councillors) (No.2) Regulations (Northern Ireland) 1973 (as amended) and Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999 (as amended).

The Regulations are divided into the following Parts—

Part 1 deals with citation, commencement and interpretation;

Part 2 deals with the 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 in respect of each year. Regulation 4 (basic allowance) requires a scheme to provide for the payment of an allowance for, or in relation to anything done in connection with, service as a councillor, including an approved duty. Regulation 5 (special responsibility allowance) requires a scheme to provide for the payment of an allowance (in addition to a basic allowance) if the council is satisfied that a councillor has special responsibilities in relation to the discharge of the functions of a council. Regulation 6 (dependants’ carers’ allowance) provides for a scheme to make payment of an allowance to councillors in relation to expenses of arranging for the care of their children or dependants as are necessarily incurred. Regulation 7 (travel and subsistence allowances) provides for a scheme to make payment of allowances to councillors where expenditure on travelling or on subsistence is necessarily incurred in the carrying out of an approved duty.

Part 3 deals with the administrative arrangements of the scheme. Regulation 8 (claims for allowances) requires a councillor entitled to a dependants’ carers’ allowance or 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 (time for submission of claims) requires a claim under regulation 8 to be submitted within 3 months from the date on which the approved duty to which the claim relates was performed. Regulation 10 (records of allowances) 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 (publicity) requires a council to arrange for a copy of the scheme of payments, as soon as practicable after its making or amendment, to be published on its website and to make 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 arrange to publish on its website the total paid in that year to each councillor in respect of the allowances. Regulation 12 (revocations) revokes the Regulations specified in Schedule 3. Regulation 13 (savings) states that notwithstanding the revocations of regulation 12 that provision shall continue to effect in relation to claims made for allowances or other payments in respect of duties performed before these Regulations come into operation.

DRAFT STATUTORY RULES OF NORTHERN
IRELAND

2011 No. ***

LOCAL GOVERNMENT

Local Government (Councillors' Remuneration Panel)
Regulations (Northern Ireland) 2011

Made - - - -

Coming into operation -

The Department of the Environment makes the following Regulations in exercise of the powers conferred upon it by section 35 of the Local Government Finance Act (Northern Ireland) 2011(a).

In accordance with section 44 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.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government (Councillors' Remuneration Panel) Regulations (Northern Ireland) 2011 and shall come into operation on ** ***** 2011.

(2) In these Regulations—

“the 1972 Act” means the Local Government Act (Northern Ireland) 1972(b);

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

“the Assembly” means the Assembly within the meaning of the Northern Ireland Act 1998;

“European Parliament” means the Parliament of the European Union;

“Panel” means the panel established in accordance with regulation 2.

Establishment of the Panel

2. There shall be established a panel known as the Councillors' Remuneration Panel for Northern Ireland.

Membership of the Panel

3.—(1) The Panel shall consist of

(a) a chairperson; and

(a) 2011 c.* (N.I.)

(b) 1972 c.9

- (b) not more than four or less than two other members as appears to the Department to be appropriate.

(2) The following persons shall not be a member or a chairperson of the Panel —

- (a) a member of the Assembly,
- (b) a member of the United Kingdom Parliament,
- (c) a member of the European Parliament,
- (d) a member of a council, or
- (e) a person who is disqualified from being or becoming a councillor(a).

Tenure of Panel members

4.—(1) A member must hold and vacate office in accordance with the terms of his appointment.

(2) The chairperson and members of the Panel shall be appointed for a period not exceeding 4 years.

(3) Members of the Panel may be appointed for periods of different duration.

(4) Subject to regulation 3(2), the chairperson or a member of the Panel may, on the termination of the period of tenure of office, be eligible for re-appointment for such further period, not exceeding 4 years.

(5) A member or chairperson appointed to fill a casual vacancy is to serve in that office until the date upon which the term of office of the person in whose place that member is appointed would have expired.

(6) A member or chairperson of the Panel may resign by giving notice in writing, signed by him, to the Department.

(7) The Department may by notice in writing remove a person from office as a member or chairperson of the Panel.

Meetings of the Panel

5.—(1) Subject to paragraph (2), the chairperson is to preside at meetings of the Panel

(2) Subject to any provisions made by these Regulations, the Panel may regulate their own procedure.

Administration

6.—(1) The Department shall pay the members of the Panel such allowances and expenses as the Department may determine.

(2) The Department shall make available to the Panel such premises, staff and services as the Panel may reasonably require.

Information

7.—(1) The Panel may, in the performance of its functions, seek information or advice from any body or person.

(2) The Panel shall comply with any directions given to it by the Department as to the discharge of its functions.

(a) See section 4 of the Local Government Act (Northern Ireland) 1972 (c.9).

Sealed with the Official Seal of the Department of the Environment on ***** 2011.



Wesley Shannon
A senior officer of the Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in accordance with section 35 of the Local Government Finance Act (Northern Ireland) 2011. They make provision for the Department to establish a remuneration panel to consider and make recommendations regarding the framework and level of allowances payable to councillors.

Regulation 2 requires the Department to appoint the Panel.

Regulation 3 provides that the Panel must consist of a chairperson and not more than four or less than two other members. One member of the panel is to be appointed chairperson by the Department.

Regulation 4 provides for the tenure of the Panel members

Regulation 5 makes provision in relation to meetings of the Panel.

Regulation 6 requires the Department to pay the expenses incurred by Panel members in carrying out its functions and also makes provision for the payment of allowances to members of the Panel and the making available of appropriate administrative support.

Regulation 7(1) makes provision for the Panel to seek information or advice from any source to enable it to carry out its functions. Regulation 7(2) requires the Panel to comply with any directions given to it by the Department as to the discharge of its functions.

The Freedom of Information Act 2000 – Confidentiality of Consultations

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or be treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and
- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office (or see web site at: <http://www.informationcommissioner.gov.uk>).

**Consultation response booklet – proposed subordinate legislation
under Part 3 of the Local Government Finance Bill**

**Draft Local Government (Payments to Councillors) Regulations
(Northern Ireland) 2011**

Question 1

Do you agree that a special responsibility allowance should be made to no more than half of the councillors of a council? If you do not agree with this restriction, what alternative would you suggest?

Question 2

Should the special responsibility allowance paid to the chairman or the vice-chairman be excluded from the restriction of payment of that allowance to no more than half the members of a council?

Question 3

Do you agree that no councillor should be paid more than one special responsibility allowance?

Question 4

Do you support the Department's proposal to simplify the scheme for travel allowance by the introduction of a single category for all motor cycles and a single category for all motor cars?

Question 5

Do you support the proposal that councils should publish their scheme of allowances to councillors on the council website and, at the end of the year, the payments made to councillors?

If you do not agree, what alternatives would you propose to encourage transparency?

Comments on the draft Local Government (Payments to Councillors) Regulations (Northern Ireland) 2011

**Draft Local Government (Councillors' Remuneration Panel)
Regulations 2011**

Question 6

Do you agree with the proposed composition and the tenure of the panel?

Question 7

Do you think that the regulations as drafted ensure sufficient impartiality and independence?

Comments on the draft Local Government (Councillors' Remuneration Panel) Regulations 2011