



STATUTORY INSTRUMENTS.

S.I. No. 276 of 2024

LOCAL AUTHORITY MEMBERS (GRATUITY) REGULATIONS 2024

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S.I. No. 276 of 2024

LOCAL AUTHORITY MEMBERS (GRATUITY) REGULATIONS 2024

I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, in exercise of the powers conferred on me by section 142(2)(b) and (4)(d) and (e) of the Local Government Act 2001 (No. 37 of 2001) (as adapted by the Housing, Planning and Local Government (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 408 of 2020)), and the Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011 (S.I. No. 418 of 2011) (as adapted by the Public Expenditure and Reform (Alteration of Name and Department and Title of Minister) Order 2023 (S.I. No. 19 of 2023)) with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Local Authority Members (Gratuity) Regulations 2024.
- (2) These Regulations come into operation on 14 June 2024.

Definitions

2. In these Regulations –

"Act" means the Local Government Act 2001 (No. 37 of 2001);
 "2021 Regulations" means the Local Government (Remuneration of Local Authority Members) Regulations 2021 (S.I. No. 312 of 2021);

"applicable annual rate" shall be construed in accordance with Regulation 6(1) and (2) of the 2021 Regulations;

"appropriate local authority" means -

- (a) where a person was a member of a county council, city council or town council dissolved by the Local Government Reform Act 2014, the successor authority of the dissolved authority as defined under section 3 of that Act, or
- (b) where a person was a member of any local authority other than those referred to in paragraph (a), such local authority;

"gratuity" means a gratuity determined in accordance with Regulation 5;

"gratuity service" means the aggregate of a member's reckonable service and any notional period added to his or her qualifying service pursuant to Regulation 3;

"qualifying service" means service given as a member of the local authority, or any other local authority, on or after 4 May 2020, subject to the proviso that where a period of qualifying service of a person as a member of a local authority

is concurrent with a period of qualifying service by him or her as a member of another local authority, only one such period shall be reckoned, which shall be the period which produces the more favourable result for him or her;

“reckonable service” means –

- (a) the number of years of a member’s qualifying service during which he or she was a member of a county council, city council, or city and county council,
- (b) the number of years of a member’s qualifying service during which he or she was a member of a local authority mentioned in Part 1 of the Schedule divided by 2,
- (c) the number of years of a member’s qualifying service during which he or she was a member of a local authority mentioned in Part 2 of the Schedule divided by 4,
- (d) the number of years of a member’s qualifying service during which he or she was a member of a local authority mentioned in Part 3 of the Schedule multiplied by 3/22, or
- (e) subject to the proviso that any qualifying service which a member has in excess of 20 years shall be disregarded; where a member has qualifying service in excess of 20 years, the excess shall be disregarded in such a manner as will produce the most favourable result for him or her;

“years”, save where the context otherwise requires, means a figure determined by the formula –

$$A + (B/365)$$

where -

A is the number of completed years in the period in question, and

B is any number of days additional to a completed year or a number of completed years in such period, and

“year” shall be construed accordingly.

Addition to qualifying service

3. (1) Where a person ceases to be a member in accordance with Regulation 4(2)(b), the appropriate local authority may add to his or her qualifying service –

- (a) where his or her qualifying service is not less than 3 years and less than 5 years, a period equivalent to such qualifying service, or, if less, an amount of notional service equivalent to the period of additional qualifying service which he or she would have if he or she had served to the age of 66 years,
- (b) where his or her qualifying service is not less than 5 years and less than 10 years, the greater of –
 - (i) 10 years less the amount of his or her qualifying service, or, if less, an amount of notional service equivalent to the

period of additional qualifying service which he or she would have if he or she had served to the age of 66 years, or

- (ii) 3 years and 122 days, or, if less, an amount of notional service equivalent to the period of additional qualifying service which he or she would have if he or she had served to the age of 50 years,
- (iii) where his or her qualifying service is 10 years or more, 3 years and 122 days, or, if less, an amount of notional service equivalent to the period of additional qualifying service which he or she would have if he or she had served to the age of 50 years.

(2) Any notional service added to a person's qualifying service under this Regulation shall, for the purposes of determining his or her gratuity service, be deemed to have been qualifying service in the position which he or she held when he or she ceased to be a member and the provisions of the definition of "reckonable service" in Regulation 2(1) shall be applied to it as if it were such qualifying service.

- (3) (a) A period of notional service shall not be added under this Regulation where the qualifying service of a member amounts to 20 years or more.
- (b) The sum of a member's qualifying service and any period of notional service added to such qualifying service under this Regulation shall not be greater than 20 years.

Grant of gratuity

4. (1) Subject to paragraph (3), where a person ceases to be a member having not less than 2 years' qualifying service, the appropriate local authority shall grant to him or her (or, in the case of his or her death, to his or her legal personal representative) a gratuity in any of the specified circumstances in paragraph (2).

- (2) The specified circumstances specified in paragraph (1) are as follows:
 - (a) where the person has attained the age of 50 years,
 - (b) where the person ceases to be a member on account of his or her having become incapable of performing his or duties as a member by reason of permanent infirmity of mind or body, or
 - (c) where the person dies while a member and a gratuity would have been granted to him or her if he or she had ceased to be a member by reason of permanent infirmity of mind or body on the date of his or her death.

(3) Notwithstanding paragraph (1), a gratuity may be granted to the legal personal representative of a person who dies while a member with less than the minimum number of years' qualifying service specified therein.

Determination of gratuity

5. (1) (a) Subject to paragraph (2), the amount of the gratuity to be granted pursuant to Regulation 4 to a person shall be determined as -

A x B x 3

20.

- (b) In this paragraph -

A is the applicable annual rate payable by virtue of Regulation 6(1) and (2) of the 2021 Regulations on the date he or she ceased to be a member, and

B is the number of years of his or her gratuity service.

(2) Where a gratuity is granted pursuant to Regulation 4(2)(c), in determining the gratuity the provisions of Regulation 3 shall apply as if the person had ceased to be a member by reason of permanent infirmity of mind or body on the date of his or her death. In addition, the minimum gratuity granted in any case where the death of the member occurs on or after the date of the making of these Regulations, shall be equal to the applicable annual rate payable by virtue of Regulation 6(1) and (2) of the 2021 Regulations on the date of death of the member.

(3) A gratuity determined under this Regulation shall be payable by the appropriate local authority as soon as is practicable following the date the person ceases to be a member. Where the gratuity is granted pursuant to Regulation 4(2)(c), it shall not be paid until such time as probate or other proof of title of the legal personal representative of the deceased member is furnished to the appropriate local authority.

Preservation of gratuity

6. (1) Where a person ceases to be a member before he or she has attained the age of 50 years, other than in circumstances where the provisions of subparagraph (b) or (c) of Regulation 4(2) apply, and he or she has at that time not less than 2 years' qualifying service, the appropriate local authority shall grant to him or her (or, in the case of his or her death before attaining the age of 50 years, to his or her legal personal representative) a preserved gratuity with effect from the date he or she attains the age of 50 years or, if earlier, the date of his or her death.

(2) The amount of the preserved gratuity to be granted to or in respect of a person pursuant to paragraph (1) shall be determined in accordance with Regulation 5, subject to the proviso that, in the application of the formula contained in paragraph (1) of that Regulation –

A shall be the applicable annual rate payable by virtue of Regulation 6(1) and (2) of the 2021 Regulations on the date he or she attained the age of 50 years or the date of his or death, as appropriate.

(3) Where a person who ceased to be a member in the circumstances specified in paragraph (1) subsequently, but before he or she attains the age of 50 years, becomes a member, any entitlement under this Regulation shall cease.

(4) A preserved gratuity determined under Regulation 5 and paragraph (2) shall be payable by the appropriate local authority as soon as is practicable following –

- (a) the date the person attains the age of 50 years, or
- (b) in the case of his or her death before attaining the age of 50 years, the date of death,

subject to the proviso that, where the preserved gratuity is payable pursuant to subparagraph (b), it shall not be paid until such time as probate or other proof of title of the legal personal representative of the deceased is furnished to the appropriate local authority.

Former member who was granted gratuity becoming member again

7. (1) Where a person who –

- (a) was granted a gratuity pursuant to Regulation 4, and
- (b) subsequently becomes a member,

ceases, having not less than 2 years' qualifying service, in respect of such subsequent membership, to be a member in any of the circumstances specified in paragraph (2) of that Regulation, the appropriate local authority shall grant to him or her (or, in the case of his or her death, to his or her legal personal representative) a gratuity in respect of his or her subsequent period of membership, subject to the proviso that the number of years of qualifying service which the person had at the time the original gratuity was granted, together with any period added to such qualifying service pursuant to Regulation 3, was less than 20 years.

(2) The amount of a gratuity to be granted to a person referred to in paragraph (1) shall be determined in accordance with Regulation 5, subject to the proviso that, in the application of the formula contained in paragraph (1) of that Regulation -

B shall be the number of years of his or her gratuity service as determined by the lesser of –

- (a) (i) the number of years of his or her qualifying service in respect of his or her subsequent period of membership, and
 - (ii) any notional period added to such qualifying service pursuant to Regulation 3, or
- (b) 20 years' qualifying service less –
 - (i) the number of years of qualifying service which the person had at the time the original gratuity was granted, and
 - (ii) any notional period added to such qualifying service pursuant to Regulation 3.

Information

8. (1) A local authority shall exchange such information relating to a member's qualifying service with any other local authority as may be required in relation to the grant, determination or payment of a gratuity.

(2) A local authority may by notice in writing request any member to supply, within such period as it may specify, such information as it may require for or in relation to the grant, determination or payment of a gratuity under these Regulations.

(3) A local authority may defer payment of a gratuity pending receipt of information to establish a person's entitlement to a gratuity.

Revocations

9. The following are revoked:

- (a) the Local Authority Members (Gratuity) Regulations 2002 (S.I. No. 281 of 2002);
- (b) the Local Authority Members (Gratuity) (Amendment) Regulations 2002 (S.I. No. 378 of 2002);
- (c) the Local Authority Members (Gratuity) (Amendment) Regulations 2003 (S.I. No. 302 of 2003);
- (d) the Local Authority Members (Gratuity) (Amendment) Regulations 2006 (S.I. No. 674 of 2006).

Serving members

10. Without prejudice to any other provision of these Regulations –

- (a) an addition to qualifying service under Regulation 3,
- (b) the grant of a gratuity under Regulation 4 or 7, or
- (c) the grant of a preserved gratuity under Regulation 6,

shall in no case be made where a person is a member of any local authority.

*Regulation 2***Schedule****Local Authorities****Part 1**

Athlone

Bray

Clonmel

Drogheda

Dundalk

Ennis

Kilkenny

Sligo

Tralee

Wexford

Part 2

Arklow

Athy

Balbriggan

Ballina

Ballinasloe

Birr

Buncrana

Bundoran

Carlow

Carrickmacross

Carrick-on-Suir

Cashel

Castlebar

Castleblayney

Cavan

Clonakilty

Clones

Cobh

Droichead Nua

Dungarvan

Enniscorthy

Fermoy

Greystones

Kells

Killarney

Kilrush

Kinsale

Leixlip

Letterkenny

Listowel

Longford

Macroom

Mallow

Midleton

Monaghan

Mullingar

Naas

Navan

Nenagh

New Ross

Portlaoise

Shannon

Skibbereen

Templemore

Thurles

Tipperary

Trim

Tullamore

Westport

Wicklow

Youghal

Part 3

Ardee
Ballybay
Ballyshannon
Bandon
Bantry
Belturbet
Boyle
Cootehill
Edenderry
Gorey
Granard
Kilkee
Lismore
Loughrea
Mountmellick
Muinebheag
Passage West
Tramore
Tuam

The Minister for Public Expenditure, National Development Plan Delivery and Reform consents to the making of the foregoing Regulations.



GIVEN under my Official Seal,
5 June, 2024.

PASCHAL DONOHOE,
Minister for Public Expenditure, National Development
Plan Delivery and Reform.



GIVEN under my Official Seal,
5 June, 2024.

DARRAGH O'BRIEN,
Minister for Housing, Local Government and Heritage.

EXPLANATORY NOTE

(This note is not a part of the Instrument and does not purport to be a legal interpretation).

These Regulations make provision and specifies conditions for the grant of a gratuity to or in respect of members of local authorities, pursuant to section 142 of the Local Government Act 2001.

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