



STATUTORY INSTRUMENTS.

S.I. No. 404 of 2023



LOCAL GOVERNMENT ACT 2001 (SECTION 142) (ALLOWANCE FOR
MATERNITY-RELATED ADMINISTRATIVE SUPPORT)
REGULATIONS 2023

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MATERNITY-RELATED ADMINISTRATIVE SUPPORT)
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I, KIERAN O'DONNELL, Minister of State at the Department of Housing, Local Government and Heritage, in exercise of the powers conferred on me by sections 4 and 142 (as amended by section 53 of the Local Government Reform Act 2014 (No.1 of 2014)) of the Local Government Act 2001 (No. 37 of 2001) and the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2023 (S.I. No. 116 of 2023) and with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform (pursuant to the Ministers and Secretaries Acts 1924 to 2020) hereby make the following regulations:

1. These Regulations may be cited as the Local Government Act 2001 (Section 142) (Allowance for Maternity-Related Administrative Support) Regulations 2023.

2. These Regulations shall come into operation on signature.

3. (1) In these Regulations, except where the context otherwise requires –

“*confinement*” and “*the date of confinement*” have the meanings respectively assigned to them by section 51 of the Social Welfare (Consolidation) Act, 2005;

“*premature birth period*” has the meaning assigned to it by the Social Welfare Consolidation Act 2005;

“*direction*” shall be construed in accordance with section 142 of the Act of 2001;

“*local authority*” has the meaning given in the Act of 2001;

“*maternity leave*” has the meaning assigned to it by section 8 of the Maternity Protection Act 1994 (as amended);

“*Oireachtas Administrative Assistant*” is as defined in the Scheme for the Provision of Secretarial Assistance for Members of the Houses of the Oireachtas and Qualifying Parties;

“*temporary absence*” has the meaning assigned to it by section 19A of the Act of 2001 (as inserted by section 2(b) of the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022);

“*temporary substitute*” has the meaning assigned to it by section 19A of the Act of 2001 (as inserted by section 2(b) of the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022);

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 18th August, 2023.*

“*the Act of 2001*” means the Local Government Act 2001 (No. 37 of 2001);

“*the Act of 2022*” means the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022.

(2) For the purposes of these Regulations, an allowance for a maternity-related administrative support is an allowance that may be payable by a local authority for the benefit of a member of that local authority for the sole purpose of engaging an individual on a part-time basis to assist that member with administrative or secretarial duties associated with their role as a member.

4. (1) A member of a local authority is entitled to the benefit of an allowance for maternity-related administrative support when such member –

- (a) is absent while availing of maternity leave in accordance with the Maternity Protection Act 1994 as amended, and does not co-opt a temporary substitute by virtue of section 19A of the Local Government Act 2001 (as inserted by section 2 of the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022) or
- (b) is entitled to maternity leave by virtue of subsection 2(2)(d) of the Maternity Protection Act 1994 (as inserted by section 1 of the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022) but does not avail of the entitled absence.

(2) A member of a local authority to whom subparagraph (1)(a) or subparagraph (1)(b) applies is, subject to any conditions as the Minister may from time to time direct under paragraph 16, entitled to the benefit of an allowance for maternity-related administrative support for a period of up to 42 consecutive weeks.

(3) The period of up to 42 consecutive weeks during which a member of a local authority may benefit from an allowance for maternity-related administrative support as contemplated by subparagraph (2) may commence on a date before the date of confinement, subject to the conditions mentioned in that paragraph and to the provisions of section 10(1) of the Maternity Protection Act 1994 (as amended by Section 3 of the Maternity Protection (Amendment) Act 2004).

(4) A member of a local authority to whom subparagraph 1(a) or subparagraph (1)(b) applies and where the member has a further period of maternity leave by virtue of Section 8(1A) of the Maternity Protection Act 1994 (as inserted by Section 16 of the Social Welfare Act 2017), that member is entitled to the benefit of an allowance for maternity-related administrative support for a further period, which shall be equal to the duration of the premature birth period.

5. (1) Where a person becomes a member of a local authority -

- (a) while availing of maternity leave in accordance with the Maternity Protection Act 1994 as amended, and does not co-opt

a temporary substitute by virtue of section 19A of the Local Government Act 2001 (as inserted by section 2 of the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022), or

- (b) is entitled to maternity leave by virtue of subsection 2(2)(d) of the Maternity Protection Act 1994 (as inserted by section 1 of the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022), but does not avail of the entitled absence,

that member is, subject to any conditions as the Minister may from time to time direct under paragraph 16, entitled to benefit from an allowance for maternity-related administrative support.

(2) A member of a local authority to whom subparagraph (5)(1)(a) applies may, as soon as possible, but no later than 4 weeks from the date of becoming a member of the local authority in question, commence availing of the benefit of an allowance for maternity-related administrative support for a maximum period of consecutive weeks equivalent to the difference between 42 weeks and the number of weeks during which the member has already availed of maternity leave.

(3) A member of a local authority to whom subparagraph (5)(1)(b) applies may, as soon as possible, but no later than 4 weeks from the date of becoming a member of the local authority in question, commence availing of the benefit of an allowance for maternity-related administrative support for a maximum period of consecutive weeks equivalent to the difference between 42 weeks and the number of weeks between the date of confinement and the date of becoming a member of a local authority.

6. (1) Where, on the commencement of these Regulations -

- (a) a member of a local authority is already availing of maternity leave and does not co-opt a temporary substitute by virtue of section 19A of the Local Government Act 2001 (as inserted by section 2 of the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022), or
- (b) a member of a local authority is entitled to maternity leave by virtue of subsection 2(2)(d) of the Maternity Protection Act 1994 (as inserted by section 1 of the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022), but is not availing of the entitled absence,

that member is, subject to any conditions as the Minister may from time to time direct under paragraph 16, entitled to benefit from an allowance for maternity-related administrative support for a period of up to 42 weeks, including where the member may have engaged an individual to provide administrative support before the commencement of these regulations.

(2) A member of a local authority to whom subparagraph 6(1)(a) applies may, as soon as possible, but no later than four weeks from the date of commencement of these Regulations, commence availing of the benefit of an

allowance for maternity-related administrative support for a maximum period of 42 consecutive weeks payable from the date of the commencement of maternity leave.

(3) A member of a local authority to whom paragraph 6(1)(b) applies may, as soon as possible, but no later than four weeks from the commencement of these Regulations commence availing of the benefit of an allowance for maternity-related administrative support for a maximum period of 42 consecutive weeks payable from the date of confinement.

(4) Where a member may have engaged an individual to provide administrative support before commencement of these Regulations, payment of the maternity-related administrative support allowance may be made from the date of the engagement of the individual providing administrative support or the enactment of the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022, whichever is the later.

7. (1) For the purposes of paragraph 6(1)(a) and paragraph 6(1)(b) “availing of maternity leave” or “entitled to maternity leave” does not preclude a member who is, or could have been, absent from the local authority by virtue of section 18(4)(a) or section 18(4)(b) of the Act of 2001 for a maternity related purpose.

(2) A member of a local authority who is, or could have been, absent from the local authority by virtue of section 18(4)(a) or section 18(4)(b) of the Act of 2001 for a maternity-related purpose may, as soon as possible, but no later than four weeks from the commencement of these Regulations, commence availing of the benefit of an allowance for maternity-related administrative support for a maximum period of consecutive weeks equivalent to the difference between 42 weeks and the number of weeks between the date of confinement and the commencement of the Act of 2022, payable from the date of the commencement of the Act of 2022.

8. (1) A local authority shall, subject to and in accordance with these Regulations and any directions that may issue under paragraph 16 of these Regulations, make payments at the applicable amount which applies in respect of the payment period.

- (2) (a) Payments shall be paid in instalments following the end of each month or of such greater period as the local authority may decide on production of evidence in the form of vouchers or receipts to show that expenses were incurred and maternity-related administrative support was provided to the member.
- (b) The payment period shall commence on the day the local authority member confirms in writing to the relevant local authority the day that the person providing maternity-related administrative support has commenced providing that service.
- (c) The payment period shall terminate:-
- (i) on the date the local authority member causing the absence no longer requires the administrative support or

- (ii) on the date the local authority member causing the absence ceases to be a member of the local authority for any reason, or
 - (iii) on the date that the person providing administrative support has ceased providing that service.
- (d) The date referenced in subparagraph 2(c)(i), (ii) and (iii) shall be notified in writing to the relevant local authority by the member availing of the administrative support.
- (3) The payment period shall be for a maximum period of 42 weeks.

9. (1) The weekly amount of the payment to be made by the local authority under these Regulations shall be up to €240.14 per week for a maximum period of 13 hours work carried out by the individual engaged.

(2) Whenever the pay of an Oireachtas Administrative Assistant is amended in accordance with Government pay policy, then the amount payable under paragraph 9(1) shall be altered on and from that day by a proportionate amount.

(3) The member may request that a lesser amount is payable than the amount set down in paragraph 9(1) for lesser hours of administrative support.

10. (1) A local authority may by notice in writing request any member to supply, within such period as it may specify, such additional information as it may require for or in relation to the determination and making of payments under these Regulations and the member shall supply such additional information.

(2) A local authority shall suspend payments in the event of failure by a member to supply information pursuant to a notice issued under paragraph 10(1).

11. (1) A member of a local authority is entitled to benefit from an allowance for maternity-related administrative support only where the member opts in writing, in such a manner and subject to any conditions as the Minister may from time to time direct under paragraph 16, to exercise the entitlement.

(2) A member of a local authority availing of an allowance for maternity-related administrative support may at any time inform the local authority in writing of their intention to discontinue receipt of the allowance.

12. (1) A member may by notice in writing to their local authority decline to accept the benefit of an allowance under these Regulations and where so notified, the local authority shall not make such payments.

(2) Where notice in writing (the first notice) has been given to a local authority under subparagraph (1), the member concerned may by a further notice in writing (the second notice) given to the local authority withdraw the first notice from the date of receipt of the second notice by the local authority or such subsequent date as may be specified in the second notice and the local authority

may then make payments in respect of the period commencing on and from such date.

13. Nothing in these Regulations purports to confer an entitlement to benefit from an allowance for maternity-related administrative support on a person who ceases to be a member of a local authority, and every period referred to in these Regulations is subject to immediate cessation should the person availing of those facilities cease to be a member of a local authority.

14. Notwithstanding the provisions of these Regulations, a person who is a member of a local authority by virtue of section 19A of the Local Government Act 2001 (as inserted by section 2 of the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022) is not entitled to benefit from an allowance for maternity-related administrative support.

15. A local authority shall not make a payment in respect of an allowance for maternity-related administrative support:-

- (a) except in accordance with the Act of 2001 and with these Regulations, and
- (b) unless it is satisfied that such a payment and the amount of the proposed allowance can properly be made in accordance with the Act of 2001 and with these Regulations.

16. (1) The Minister may from time to time give directions to local authorities in relation to any matter referred to in these Regulations.

(2) Without prejudice to the generality of paragraph 16(1), the Minister may give directions from time to time with regard to all or any of the following matters:

- (a) the rules, requirements, conditions, restrictions, limits, procedures or any other provisions which shall apply in connection with the payment of an allowance for maternity-related administrative support provided for under these Regulations;
- (b) the method by which or manner in which an allowance for maternity-related administrative support provided for under these Regulations shall be calculated, paid or claimed;
- (c) particulars to be recorded in the annual report of a local authority relating to payments for allowances for maternity-related administrative supports made under these Regulations;
- (d) any other requirements to be complied with by local authorities or by members of a local authority in connection with the payment of an allowance for maternity-related administrative support provided for under these Regulations.

17. The Minister may from time to time request information from a local authority in relation to any matter referred to in these Regulations and the local authority shall respond in a timely and appropriate manner.

18. Each local authority shall, not later than 5 years after commencement of these Regulations, conduct a review of the operation and effectiveness of these Regulations and shall, not later than 6 months after the end of that period of 5 years, or on the completion of the review, whichever is the earlier, prepare a report, in writing, of the findings of the review and of the conclusions drawn from those findings and cause copies of the report to be submitted to the Minister.

GIVEN under my hand,
3 August, 2023.

KIERAN O'DONNELL,
Minister of State at the Department of Housing, Local
Government and Heritage.

The Minister for Public Expenditure, National Development Plan Delivery and Reform hereby consents to the Local Government Act 2001 (Section 142) (Allowance for Maternity-Related Administrative Support) Regulations 2023



GIVEN under the Official Seal of the Minister for Public
Expenditure National Development Plan Delivery and
Reform,
10 August, 2023.

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

EXPLANATORY NOTE

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

These Regulations provide for the payment of an amount for the benefit of elected members of local authorities to defray expenses accrued where an elected member has engaged a person to carry out administrative support while that elected member is absent from the local authority while on maternity leave or is continuing her role as an elected member while being entitled to be on maternity leave and the keeping of records in relation to payments of same in accordance with section 142 of the Local Government Act 2001.

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