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STATUTORY RULES OF NORTHERN IRELAND

2013 No. 183

LOCAL GOVERNMENT

Local Government (Severance Payments to Councillors) Regulations (Northern Ireland) 2013

Made - - - - 5th July 2013

Coming into operation 1st August 2013

The Department of the Environment makes the following Regulations in exercise of the powers conferred by section 19 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010(1).

Citation and commencement

1. These Regulations may be cited as the Local Government (Severance Payments to Councillors) Regulations (Northern Ireland) 2013 and shall come into operation on 1st August 2013.

Interpretation

2. In these Regulations—

“calculation period 1973 to 1998” means the period that commences on 30th May 1973 and ends on 21st May 1998;

“calculation period 1998 to 2015” means the period that commences on 22nd May 1998 and ends on the councillor’s date of resignation;

“clerk of the council” means the clerk of an existing council;

“councillor” means a member of an existing council;

“qualifying period” means the period that commences on 30th May 1973 and ends on 31st March 2015;

“reckonable service” has the meaning as assigned to it in regulation 6 (calculation of reckonable service);

“resignation” means a resignation in accordance with section 8 (resignation) of the Local Government Act (Northern Ireland) 1972(2); and

“severance payment” means a payment made in accordance with these Regulations.

(1) 2010 c. 7 (N.I.)

(2) 1972 c. 9 (N.I.)

Eligibility for severance payment – prescribed conditions

3. For the purposes of section 19(1) (severance payments to councillors) of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010—

- (a) the prescribed period is the period which commences on 1st August 2013 and ends on 31st March 2015; and
- (b) the prescribed conditions are:-
 - (i) by the date of making an application for a severance payment, the councillor has accrued a minimum of twelve years reckonable service; and
 - (ii) the councillor has made an application for a severance payment in accordance with regulation 4.

Application for a severance payment

4.—(1) An application for a severance payment shall—

- (a) be made in writing to an existing council;
 - (b) be in such form as that council may direct;
 - (c) be made to the clerk of the council;
 - (d) be made between—
 - (i) 1st August 2013 and 31st December 2013; or
 - (ii) 1st January 2014 and the closing date for nomination as a candidate in the next local government elections; and
 - (e) contain the information relating to the councillor who is applying, as specified in paragraph (2).
- (2) That information is—
- (a) the name and residential address of the councillor;
 - (b) the date of birth of the councillor;
 - (c) the councillor’s total number of years’ service, rounded as specified in regulation 6(2), for each of the following periods—
 - (i) calculation period 1973 to 1998; and
 - (ii) calculation period 1998 to 2015;
 - (d) the councillor’s number of years’ service under paragraph (2)(c)(i), specifying both start and end dates;
 - (e) the councillor’s number of years’ service under paragraph (2)(c)(ii), specifying both start and end dates;
 - (f) total amount of severance payment due under both calculation periods specified under paragraph (2)(c);
 - (g) a written declaration—
 - (i) stating the councillor’s date of resignation;
 - (ii) that the councillor will not stand for election at the next local government elections; and
 - (iii) that the information in the application is accurate as far as the councillor is aware; and
 - (h) the councillor’s written nomination form (“nomination form”), naming one or more beneficiaries to receive the severance payment, in the event of a councillor’s death after becoming entitled to the severance payment and before payment of it.

- (3) The date of resignation mentioned in paragraph (2)(g)(i) shall be—
- (a) in the case of an application made under paragraph (1)(d)(i), between the dates mentioned in that paragraph; or
 - (b) in the case of an application made under paragraph (1)(d)(ii), on or before 31st March 2015.

(4) Where an application for a severance payment is made by a councillor, and that councillor is nominated for election in the next local government elections, that application shall be deemed to be of no effect as and from the date of that nomination.

Amount and calculation of severance payment

5.—(1) Subject to paragraph (2), the amount of severance payment shall be determined by the existing council.

- (2) The amount of severance payment shall be the lesser of—
- (a) the sum of—
 - (i) £1,000 per year for each year of reckonable service in the calculation period 1973 to 1998, plus
 - (ii) £600 per year for each year of reckonable service in the calculation period 1998 to 2015; or
 - (b) £35,000.

Calculation of reckonable service

6.—(1) A period of reckonable service shall commence on the day the councillor came into office and end on the councillor's last day in office during the qualifying period.

- (2) Where total reckonable service includes a part year, that part year—
- (a) being a period of 6 months or more, shall be rounded up to count as one year; or
 - (b) being a period of less than 6 months, shall be disregarded.
- (3) All periods of reckonable service shall be aggregated to give a total amount.

Payment of a severance payment

7.—(1) An existing council shall not make a severance payment to a councillor, prior to the date of that councillor's resignation.

- (2) An existing council shall not make more than one severance payment to a councillor.

(3) Where a councillor dies after becoming entitled to the severance payment and before payment of it, the existing council shall pay the severance payment to the beneficiaries named in that councillor's nomination form under regulation 4(2)(h).

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Sealed with the Official Seal of the Department of the Environment on 5th July 2013.



Linda MacHugh
A senior officer of the Department of the
Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the payment of severance payments to councillors under the enabling power in section 19 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010. This is the first use of this enabling power by the Department.

Regulation 1 deals with the citation and commencement of these Regulations.

Regulation 2 explains how certain terms in these Regulations are interpreted.

Regulation 3 sets out the prescribed period and prescribed conditions which a councillor must meet in order to be eligible for severance payment. It specifies that councillors must have accrued a minimum of 12 years reckonable service by the date of the councillor's application to be eligible for a severance payment and that the application must be made in accordance with regulation 4.

Regulation 4 provides for applications for a severance payment. It specifies how and when such applications are to be made and sets out the administrative requirements for each application.

Regulation 5 provides for the calculation of the amount of a severance payment by the existing council.

Regulation 6 provides for the calculation of total reckonable service.

Regulation 7 makes it clear that the existing council must not pay a severance payment to a councillor before the date of his or her resignation and that only one severance payment shall be paid each eligible councillor. It also places a duty on the existing council to pay the severance payment to the councillor's beneficiaries named by the councillor on his or her nomination form, in the event that the councillor dies between becoming eligible for a severance payment and receiving payment of it.