

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part J Surviving Partners and Children

Rule 64: Payment of children's pension

261. Under rule 64(1), a children's pension is payable during any period a child qualifies under rules 62 and 63. A children's pension would normally be paid to the surviving parent, but rule 64(2) gives the Fund trustees discretion to decide who should receive the children's pension (or any part of it).
262. Rule 64(3) requires that, where a children's pension is paid to someone other than a qualifying child, the whole pension must be used for the benefit of the child(ren), unless the Fund trustees direct that the proportions are to be different. This may occur where there are a number of eligible children, given that the total amount does not increase although there are more than two eligible children.
263. Rule 64(4) gives the Fund trustees power to recover payment of a children's pension from the recipient in the event that the recipient is not using it for the benefit of the child. The trustees could take other action to ensure that the money is applied for the benefit of the intended beneficiary. They can seek to recover amounts not used for the child, including reducing future pension payable to the recipient. In addition, rule 64(5) gives the Fund trustees discretion to withhold a children's pension if it is not being used for their benefit. Any withheld amounts can be paid when the Fund trustees are satisfied that the pension will be used for its intended purpose.
264. Under rule 64(6)(a), the Fund trustees need not commence payment of a children's pension until they have received notification of the child's entitlement. This could be the child's birth or adoption certificate or evidence of financial dependency. Under rule 64(6)(b), the Fund trustees also require details of any other pensions in payment, in order to calculate any tax liability if the Lifetime Allowance is exceeded. The Fund trustees would also require details to allow payments to be made, such as home address and bank details.
265. Under rule 64(7), the pension will be paid monthly in arrears or by any other payment frequency of no longer than one year, as determined by the Fund trustees.