

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part T Miscellaneous

Rule 105: Guaranteed minimum pension

436. Rule 105 makes provision for guaranteed minimum pensions (GMP).
437. GMP is related to the State Earnings Related Pension Scheme (SERPS). SERPS was an additional state pension scheme which was related to earnings, running from 6 April 1978 to 5 April 2002. A person who was in employment may have paid National Insurance Contributions (NICs) into SERPS. However, if they were also a member of a contracted-out occupational pension scheme, they did not pay this part of their NICs and therefore did not earn a pension under SERPS.
438. Between April 1978 and April 1997, members of contracted-out pension schemes were guaranteed not to have a smaller pension from their contracted-out occupational scheme than they would have received under SERPS. If an occupational pension entitlement is less than a GMP entitlement, the occupational pension is increased to match a minimum pension entitlement from the relevant GMP service.
439. As GMP only applied until 1997, no GMP will have directly accrued under the scheme which commenced for the Parliament in 1999. An obligation to pay a GMP entitlement under the scheme will only arise in relation to “transfer-in sums” (see Chapter 2 of Part N for transfers-in).
440. Rule 105(1) makes provision for payment of GMP to any entitled person in accordance with sections 14 to 16 of the Pension Schemes Act 1993. It provides that the pension is paid for the rest of the individual’s life at a rate equivalent to a weekly rate of not less than the guaranteed minimum. The entitlement is from “pensionable age” as defined in section 181 of the 1993 Act, for GMP purposes 60 for women and 65 for men.
441. Rule 105(2) and (3) cover where GMP entitlement potentially arises earlier than the scheme’s normal retirement age. The right to GMP entitlement from “pensionable age” is read with section 13(4) of the 1993 Act which allows for postponement where employment continues. Rule 105(2) therefore provides that payment of a person’s GMP is postponed where the individual is an MSP or still an office-holder on the day it becomes payable.
442. Rule 105(3) allows a postponement described in rule 105(2) to last either until the individual is no longer an MSP or office-holder, or for up to five years from pensionable age where the person is still in office, whichever is the earlier. The postponement may be for a longer period with the consent of the individual.

*These notes relate to the Scottish Parliamentary Pensions Act
2009 (asp 1) which received Royal Assent on 25 February 2009*

443. Transitional provision is made at paragraph 20 of Schedule 3 in relation to transfer-in sums received under article P6 of the 1999 scheme rules (see paragraphs 555-556).