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**Changes to legislation:** There are currently no known outstanding effects for the Scottish Parliamentary Pensions Act 2009, Paragraph 56. (See end of Document for details)

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## SCHEDULE 1 SCOTTISH PARLIAMENTARY PENSION SCHEME

### PART J

#### SURVIVING PARTNERS AND CHILDREN

#### CHAPTER 1

##### SCHEME PENSION ENTITLEMENT

###### *Meaning of “scheme pension entitlement”*

- 56 (1) References in this Part to a deceased individual's “scheme pension entitlement” are to be construed in accordance with this rule.
- (2) The “scheme pension entitlement” of an individual who died while being a participating member—
- (a) where if the individual died when aged 65 or over, is the annual amount of scheme pension which would have been payable to the deceased if he or she had not been an MSP or the holder of a pensionable office on the day on which he or she died,
  - (b) where if the individual died when aged under 65, is the annual amount of scheme pension which would have been payable to the deceased if he or she had become entitled to (and had been paid) a serious ill-health pension on the day on which he or she died.
- (3) The “scheme pension entitlement” of an individual who died while being a deferred pensioner—
- (a) where if the individual died when aged 65 or over, is the annual amount of scheme pension which would have been payable to the deceased if he or she had not been an MSP or the holder of a pensionable office on the day on which he or she died,
  - (b) where if the individual died when aged under 65, is the annual amount of scheme pension which would have been payable to the deceased if he or she had been aged 65 on the day on which he or she died.
- (4) The “scheme pension entitlement” of an individual who died while being a scheme pensioner—
- (a) where the deceased received a retirement lump sum, is the annual amount of scheme pension which would have been payable to the deceased immediately before he or she died had the pension not been reduced under rule 43(2),
  - (b) where the deceased did not receive a retirement lump sum, is the annual amount of scheme pension being paid to the deceased immediately before he or she died.
- (5) The “scheme pension entitlement” of a deceased individual whose entitlement to scheme benefits was extinguished by rule 55(3) before he or she died is the annual amount of scheme pension which would have been payable to the deceased if—
- (a) the ill-health lump sum had not been paid to the deceased,

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- (b) the deceased had stopped being a participating member on the day on which the ill-health lump sum was paid,
  - (c) the deceased had become entitled to a scheme pension on that day, and
  - (d) where that day was before the deceased's 65th birthday—
    - (i) the deceased had been entitled to a serious ill-health pension from that day (see rule 47), and
    - (ii) the deceased's scheme pension had been enhanced and paid accordingly (see rule 50).
- (6) Where an individual dies when his or her pension payments are suspended under rule 41—
- (a) the deceased individual is to be treated for the purposes of this rule as a scheme pensioner (regardless of whether also a participating member at that time), and
  - (b) the suspension is to be treated as having been lifted immediately before the individual died.
- (7) A deceased individual who was a scheme pensioner when he or she died only because of rule 44(2) is to be treated for the purposes of this rule as having been a deferred pensioner at that time.

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