
Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Scottish Parliamentary Pensions Act 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 1 SCOTTISH PARLIAMENTARY PENSION SCHEME

PART B

FUND TRUSTEES

Fund trustees

- 4 The “Fund trustees” are the individuals appointed under and holding office in accordance with this Part.

Functions

- 5 The Fund trustees' principal function is to administer the Pension Fund, and to manage and apply its assets, in accordance with the scheme.

Number of trustees

- 6 There are to be at least 3 but no more than 6 Fund trustees.

Eligibility

- 7 A person who is prevented by the Pensions Act 1995 (c. 26), or by any other enactment or rule of law, from being a pension scheme trustee is barred from being a Fund trustee.

Appointment of Fund trustees

- 8 (1) The Scottish Parliament may resolve to appoint as a Fund trustee any individual nominated by the SPCB as suitable to hold that office.
- (2) The SPCB must, when deciding who to nominate—
- (a) do its best to ensure that the Fund trustees include a participating member and a scheme pensioner, and
 - (b) have regard to any recommendation by the incumbent Fund trustees.
- (3) A Fund trustee appointment has immediate effect (unless the Scottish Parliament resolves otherwise).
- (4) The Court of Session may appoint a Fund trustee only on an application under section 19(2) of the Trusts (Scotland) Act 1921 (c. 58).
- (5) The Fund trustees do not have power to assume new trustees.

Remuneration, allowances and expenses

- 9 (1) A Fund trustee may be remunerated, or receive allowances, from the Pension Fund for acting as a Fund trustee only if the following conditions are met—

Condition 1

The Fund trustee is not a scheme member (or a pension credit member).

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<i>Condition 2</i>	The other Fund trustees (if any), before appointment, recommend to the SPCB that the Fund trustee be remunerated or entitled to allowances.
<i>Condition 3</i>	The SPCB's nomination to the Scottish Parliament specifies that remuneration or allowances are to be paid.

- (2) Expenses properly incurred by the Fund trustees in connection with the performance of their functions are to be paid from the Pension Fund.

Resignation

- 10 (1) A Fund trustee may resign by giving notice of resignation to—
- (a) the Presiding Officer, and
 - (b) the other Fund trustees.
- (2) A resignation has effect immediately on the notice of resignation being given.
- (3) This rule does not apply where there is a sole trustee.

Removal

- 11 (1) A Fund trustee is removed from office only if—
- (a) the Scottish Parliament resolves to end the Fund trustee's tenure,
 - (b) the Fund trustee becomes barred from being a Fund trustee (see rule 7), or
 - (c) the Fund trustee's tenure ends under rule 12.
- (2) A Parliamentary resolution passed on a division for the purposes of this rule has effect only if voted for by at least two-thirds of the voting MSPs.

Change of status

- 12 (1) This rule applies—
- (a) where a Fund trustee who was a participating member when appointed becomes a deferred pensioner or a scheme pensioner,
 - (b) where a Fund trustee who was a deferred pensioner when appointed—
 - (i) becomes a participating member or a scheme pensioner, or
 - (ii) has his or her rights to receive scheme benefits extinguished under rule 80, and
 - (c) where a Fund trustee who was a scheme pensioner when appointed becomes an MSP or the holder of a pensionable office.
- (2) Where this rule applies—
- (a) the Fund trustee must give notice of change of circumstance to—
 - (i) the Presiding Officer, and
 - (ii) the other Fund trustees, and
 - (b) the Fund trustee's tenure ends 6 months after the change of circumstance occurs (unless the Scottish Parliament resolves otherwise).

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Member-nominated trustees

- 13 Nothing in the scheme overrides section 241 of the Pensions Act 2004 (c. 35). Accordingly—
- (a) the SPCB must nominate as suitable to be a Fund trustee any individual who the Fund trustees recommend for the purposes of fulfilling their obligations under that section, and
 - (b) rule 6 does not prevent the SPCB from so nominating an individual (or the appointment of an individual) if the appointment—
 - (i) would result in more than 6 Fund trustees holding office, and
 - (ii) would ensure that at least one-third of the Fund trustees are appointed in accordance with that section.

Procedure

- 14 The Fund trustees may regulate their own procedure (in so far as not regulated by the scheme).

Quorum

- 15 A meeting of the Fund trustees is quorate if—
- (a) 3 or more Fund trustees are present, or
 - (b) where fewer than 3 Fund trustees hold office, if both trustees are (or the sole trustee is) present.

Staff and advisers

- 16 The Fund trustees may—
- (a) employ staff on such terms as they think fit,
 - (b) seek advice from any person.

Fund management

- 17 The Fund trustees must monitor the performance of any fund manager they appoint.

Indemnity insurance

- 18 The Fund trustees may obtain insurance designed to indemnify them against any personal liability arising in connection with the performance (or purported performance) of their functions.

Delegation

- 19 (1) The Fund trustees may authorise any person (including one or more of themselves) to perform, or to authorise others to perform, any of their functions to the extent authorised.
- (2) An authorisation does not affect the Fund trustees' responsibility for delegated functions or their ability to perform those functions themselves.

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Validity of acts

- 20 (1) A decision, authorisation or other act of the Fund trustees is not invalidated—
- (a) by any change to the individuals (or to the status or eligibility of individuals) holding office as Fund trustees,
 - (b) by any defect in the nomination or appointment of a Fund trustee, or
 - (c) by the fact that it is done when fewer than 3 Fund trustees held office.
- (2) The Fund trustees are free to vary or revoke any previous decision or authorisation (but such a variation or revocation may reduce the scheme benefits to which any individual is entitled only if made in accordance with any other scheme rule).

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3(4)-(7) substituted for s. 3(4) by [S.S.I. 2011/196 art. 3](#)
- sch. 1 rule 85A inserted by [S.S.I. 2011/244 Annex para. 4](#)
- sch. 1 rule 13 omitted by [S.S.I. 2011/244 Annex para. 1](#)
- sch. 1 rule 85(2) words substituted by [S.S.I. 2011/244 Annex para. 3](#)
- sch. 1 rule 49 words substituted by [S.S.I. 2011/244 Annex para. 2](#)
- sch. 3 para. 18(2A) inserted by [S.S.I. 2011/244 Annex para. 5\(b\)](#)