

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part D Contributions

109. Part D of Schedule 1 sets out the arrangements for obtaining scheme member contributions from an MSP's salary, office-holder salary or both. It also makes provision for a yearly direct contribution from the SPCB, in effect the scheme sponsor's contribution, into the Fund. These rules replace Part D of the 1999 pensions order.

Rule 27: Scheme member contributions

110. Rule 27 requires the SPCB, as the organisation currently responsible for paying a participating member's salary, to deduct a pension contribution from each participating member's salary and pay it to the Fund trustees. The Fund trustees must pay any sums received into the Pension Fund under rule 3(2).
111. The rule provides that references in other scheme rules to "scheme member contributions" are to be read as deductions under this rule.

Rule 28: Amount of scheme member contribution

112. The higher rate scheme member contribution is 11% of salary. That rate is the default rate for contributions unless participating members elect to pay the lower rate scheme member contribution of 6% of salary (see rule 29). Definitions for the scheme member contribution rates referred to in this Part are set out in rule 109. Rules 38 and 39 provide that during the period when higher rate scheme member contributions are paid pension will accrue at 1/40th of final salary and when lower rate scheme member contributions are made the accrual rate is 1/50th of final salary.

Rule 29: Procedure for changing scheme member contribution rate

113. Rule 29(1) allows a participating member to alter their scheme contribution rate from the higher to the lower rate or vice versa by giving notice to the Fund trustees.
114. Under rule 29(2) a participating member must give written notice to the Fund trustees to change their contribution rate. An MSP participating member can only change their contribution rate within three months of being elected (or re-elected) and a non-MSP participating member who holds a qualifying office (Lord Advocate or Solicitor General for Scotland) can only make the change within three months of being appointed (or re-appointed). The rule makes no provision for an MSP office-holder to elect to change contribution rates on election to an office, the effect being that office-holders who do not opt out as office-holder members must pay scheme contributions towards their office-holder pension at the same rate as they pay towards their MSP pension.

115. The effect of rule 29(3) is that any notified change in contribution rate will be backdated to the date of being elected or appointed. In the case of a change from the higher rate to the lower rate, any overpaid contributions will be refunded to the participating member. In the case of a change from the lower rate to the higher rate, the participating member must pay any shortfall in contributions.
116. A transitional provision is made in Schedule 3 at paragraph 4 for those who are existing participating members before the new rules come into force and want to elect to pay the lower contribution rate of 6%. They must notify the SPCB of that intention at least 14 days before the new rules come onto force (see paragraphs 493-496).

Rule 30: Relief from liability to make scheme member contributions

117. Rule 30 makes provision for contributions where a scheme member has sufficient reckonable service to be entitled to the maximum permitted pension under the scheme. Under rule 30(1), an MSP scheme member ceases to pay member contributions where their pension entitlement has reached the maximum allowable under the scheme, which is two-thirds of their salary (see Part F, rule 38(2)).
118. Although the maximum pension entitlement of two-thirds final salary may have been reached, any subsequent increase to an MSP scheme member's salary would leave room to accrue further pension. Rule 30(2) enables an MSP member to recommence paying scheme member contributions following a salary increase, allowing them to accrue further pension up to two-thirds of the increased salary.
119. Rule 30(3) determines that the MSP scheme member contributions payable under rule 30(2) shall only be for the amount by which the MSP salary increases and at the contribution rate applicable when they stopped making contributions.
120. Rule 30(4), (5) and (6) make similar provisions to rule 30(1), (2) and (3) for office-holders (see Part F, rule 39(4) for office-holder's maximum pension entitlement).
121. A scheme member can increase their pension entitlement by increasing their reckonable service through the purchase of added years under Part O. Added years may be purchased by lump sum or monthly payments. Rule 30(7) determines that for the purposes of calculating the maximum pension entitlement, the full reckonable service bought through added years, whether yet paid for in full or not, should be included in the calculation.

Rule 31: Contributions when salary not drawn

122. Should a participating member, for whatever reason, decide not to receive their salary as an MSP or office-holder, rule 31 makes provision for payment of their scheme member contributions. The rule requires the person responsible for paying the salary, if it was being paid, to pay to the Fund trustees an amount equal to the scheme member contributions that would have been deducted if the salary had been paid. By virtue of the payments being made the individual becomes eligible for the full applicable range of scheme benefits. The rule does not apply to an individual who has opted-out of the pension scheme under rules 23 or 24.

Rule 32: Contributions from the SPCB

123. The SPCB, by virtue of rule 27, is required to pay all scheme member contributions deducted from salary to the Fund trustees who then pay the contributions into the Pension Fund. Rule 32 provides that a sum must also be paid directly into the Fund each year by the SPCB.
124. Rule 32(2) allows the SPCB to determine the amount of that sum, providing it takes account of the scheme actuary's recommended rate for future contributions and any advice received from the Fund trustees. The Fund trustees must obtain an actuarial report from the scheme actuary at intervals of no longer than three years. Such a

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report must include a recommended contribution rate from the SPCB, which is set as a percentage of a scheme member's salary (see rule 103(3)).