

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part F Pensions

Rule 37: Scheme pension

140. Rule 37 sets out the qualifications that must be met for an individual to become entitled to a pension under the scheme. Under rule 37(1) a scheme pension is payable to an individual who has reckonable service (see Part E) as an MSP or office-holder and has reached the age of 65. The age 65 requirement is subject to other scheme rules covering where the individual has taken an early retirement pension (see Part H) or is in receipt of an ill-health pension (see Part I). Rule 37(1) also prohibits entitlement to pensions where an individual is serving as an MSP or office-holder. This is subject to rule 44 which applies to serving MSPs and office-holders age 75 and above. See also rule 40(2) in relation to commencement of pension payments.
141. Rule 37(2) provides that the annual pension payable from the scheme is the total of the MSP pension accrued under rule 38 and the amount of office-holder pension accrued under rule 39. The actual amount of pension payable can vary should other rules apply. This could be due to the individual commuting part of their pension for a lump sum payment (see Part G) or because an individual's entitlement to a guaranteed minimum pension¹ is greater than their scheme entitlement (see rule 105).
142. Rules 37, 38 and 39 recognise that the actual amount of pension payable may vary from a calculation based on actual service alone. This is achieved in the rules by (i) a variation of the definition of reckonable service (see Part E) which covers an increase as a consequence of a purchase of added years under Part O, or transfers in under Part N; or (ii) by other rules (see rule 37(2)). Other rules which can vary entitlement from actual service are those providing for the reduction in scheme benefits under section 31 of the 1999 Act where a pension sharing order has been made (see rule 92) and those allowing for the retention of some of a transfer out value to preserve a guaranteed minimum pension entitlement which a receiving scheme is not willing to accept (see rule 77).

¹ Such entitlement would only possibly arise in this scheme in respect of any transferred in service, as such GMP rights are only for periods of employment prior to April 1997 where there was also membership of a SERPS contracted out scheme