

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part I Ill-Health

Rule 53: Review of ill-health pension entitlements

219. Rule 53 makes provision for review by the Fund trustees of an individual's entitlement to an ill-health pension. Rule 53(1) enables a review to be carried out at any time and at such intervals as the Fund trustees determine until the individual reaches age 65.
220. Under rule 53(2), the Fund trustees can require a pensioner to provide evidence from a doctor on their state of health.
221. Rule 53(3) sets out the powers of the Fund trustees if, following a review, they are satisfied that the individual is no longer prevented from doing gainful work by reason of his or her state of health. If so satisfied, the Fund trustees can either determine that the individual is no longer entitled to an ill-health pension (rule 53(3)(a)) or, where the individual is entitled to a serious ill-health pension, that they should be entitled to an ordinary ill-health pension (rule 53(3)(b)). In the latter case, the Fund trustees would have to remain satisfied that the individual would not be able to perform the duties of an MSP or holder of a pensionable office.
222. Rule 53(4) provides that the Fund trustees may determine that, if a person refuses to undergo a medical examination under rule 54 (see paragraph 226) or fails to cooperate with a review, they are no longer entitled to an ill-health pension.
223. Rule 53(5)(a) provides that, where the Fund trustees have made a determination under rule 53 that the individual is no longer entitled to an ill-health pension, the pension payments are to stop. It also provides that, where the Fund trustees have determined that the individual is entitled to an ordinary ill-health pension, the pension payments are to be reduced. Under Rule 53(5)(b), when an ill-health pension is stopped or reduced the individual is treated as if they had never been entitled to an ill-health pension. The effect of rule 53(5)(b) is that when the individual next becomes entitled to receive a scheme pension no account is taken of the previous ill-health entitlement. This is similar to the provision in rule 41(3) (see paragraphs 162-165).