

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part M Short Service Refunds

298. Part M of Schedule 1 sets out the rules for paying a refund of contributions from the pension scheme. Any amount refunded under Part M requires to be a short service refund lump sum as defined under paragraph 5 of Schedule 29 to the Finance Act 2004. These rules replace article N1 of the 1999 pensions order.

Rule 72: Payment of short service refunds

299. Under rule 72(1), a refund is available to former scheme members with fewer than three calendar months reckonable service who apply for a refund at any time prior to becoming a scheme pensioner. A refund cannot be made in respect of office-holder or MSP service only. Under rule 72(2), the refund payable is the amount of contributions paid by the individual, less any amount paid to HMRC under section 55(2) of the 1993 Act for the contributions equivalent premium (CEP) for that individual. The CEP is the amount required to buy back service in the second state pension scheme for the refund period, as the scheme is contracted-out of the second state pension scheme.

Rule 73: Extinction of scheme benefits

300. This rule determines that the payment of a short service refund lump sum extinguishes all pension rights including those of others such as surviving partners and eligible children.

Deductions of tax from refunds

301. Rule 99 is also relevant to Part M as it provides that any short service refund lump sum payable under Part M should be reduced to cover any tax paid by the Fund trustees in respect of the refund in accordance with section 205 of the Finance Act 2004.

Transitional provisions – short service refunds

302. Article N1 of the 1999 pensions order provides for refunds where the individual has less than two years service. Under rules 23(3) and 24(2) of Schedule 1, rights in the scheme now vest after three months. This allows short service benefits to be available prior to the two year service requirement of section 71 of the 1993 Act, but consequently refunds are only available to former members of the scheme with less than three months' service. Transitional provision for current members is made at paragraph 16 of Schedule 3 allowing existing scheme participants to request a refund of contributions, if they have accrued less than two years total reckonable service.