

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part N Transfers Chapter 2

Transfers-in

Rule 81: Transfer-in

320. Rule 81 sets out the conditions that must be met in order for the Fund trustees to accept a transfer sum from another pension scheme. A participating member must provide a “transfer-in notice” setting out the amount of the transfer-in sum and the pension scheme which is making the payment (condition 1). Section 95 of the 1993 Act requires other schemes to give transfer values up to one year prior to normal retirement age, which will be a maximum of 64 for most schemes. The new scheme rules restrict transfers-in to a corresponding age limit so that this notice must be provided before the individual’s 64th birthday (condition 2).
321. The participating member must have at least three months of total reckonable service (condition 3), as prior to this period they do not yet have vested rights in the scheme and may be entitled to a short service refund (Part M). The Finance Act 2004,¹ refunds in excess of a member’s contributions under the pension scheme would be an unauthorised payment. The three month minimum in the scheme rules prevents a transfer in and then a refund, which would be an unauthorised payment.
322. Condition 4 requires payment to be made from a pension scheme which is either registered or a qualifying recognised overseas pension scheme for the purposes of Part 4 of the Finance Act 2004. The transfer-in amount should be sufficient to cover any entitlement to a guaranteed minimum pension that arose from the transfer-in (condition 5), (see paragraph 316). Condition 6 is a linkage to the restriction imposed by rule 83 (see paragraph 328).
323. Condition 7 provides the Fund trustees with power to impose further conditions on transfers-in should they require. For example, there may be further requirements from the amendments to the 1993 Act or to the Occupational Pension Schemes (Transfer Values) Regulations 1996² or to other legislation which places obligations on trustees before accepting transfer values. Equally there may be factual information which the Fund trustees require before they accept the transfer.
324. As a transitional arrangement, Schedule 3 paragraph 17(2) disapplies condition 2 (where notice of transfer-in must be given before the scheme member’s 64th birthday) for 12 months from the new rules day for current participating members.

¹ Paragraph 5(2) of Schedule 29 to the Finance Act 2004

² S.I. 1996/1847