

# **SCOTTISH PARLIAMENTARY PENSIONS ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part P Pension Sharing**

##### **Implementation of pension sharing order – internal and external transfers**

379. The Fund trustees must discharge liability for a pension credit under a pension sharing order within the four month period specified in section 34 of the 1999 Act. As they are trustees of a funded occupational pension scheme, paragraph 1 of Schedule 5 to the 1999 Act provides how the trustees can discharge their liability. They may implement an external transfer of the value of a person's pension credit to another scheme which meets the "qualifying arrangement" test. Alternatively, they may allow an internal transfer, that is allow the ex-spouse or civil partner to become a "pension credit member" in the scheme.
380. The Fund trustees' procedure for implementing these rights needs to follow the procedure under paragraph 1 of Schedule 5 to the 1999 Act and the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000.<sup>1</sup> Again, given the detailed provisions elsewhere, specific rules on implementation procedure are not provided in Part P.
381. Following the procedure for an external transfer will discharge the Fund trustees' obligations as regards the ex-spouse or civil partner. However, if the pension sharing order is to be implemented by an internal transfer, that is the creation of a separate pension credit for the ex-spouse or civil partner in the scheme, there are ongoing rights within the scheme for the Fund trustees to govern. Rule 91 therefore provides for these rights for the scheme within the context of the general law.

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<sup>1</sup> S.I. 2000/1053