SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part P Pension Sharing

Rule 91: Rights of pension credit member

382. Rule 91(1) defines a "pension credit member" as being a person on whom pension rights have been conferred within the scheme by the Fund trustees - that is, an internal transfer in accordance with paragraph 1(2) of Schedule 5 to the 1999 Act.

383. The 1999 Act inserted a new Part IVA, Chapter 1 (sections 101A to 101E) into the 1993 Act to set out the minimum benefits that require to be given to pension credit members. There are also detailed provisions on pension credits benefits for trustees to follow in the Pension Sharing (Pension Credit Benefit) Regulations 2000[1] and the Pension Sharing (Safeguarded Rights) Regulations 2000.[2]

384. These rules will be met by the Fund trustees and are supplemented to the extent necessary for this scheme by rule 91(2) which sets out the benefits to which a pension credit member is entitled under the scheme. It is for the Fund trustees to determine these benefits and rule 91(2) lists the range of benefits which may be conferred. The range is wider than the minimum requirements in Chapter 1 of Part IVA of the 1993 Act.

385. Rule 91(2)(a) sets the normal retirement age at 65 in line with that for other scheme members and rule 91(2)(b) allows for commutation of a portion, subject to the revenue maximum of 25%, of the pension into a lump sum payment. Rule 91(c) allows early retirement from age 60 onwards. Age 60 is the earliest age permitted for pension credit members under the pension sharing legislation.[3]

386. Commutation of pension acquired under a pension sharing arrangement is not permitted prior to normal benefit age (65) except in the circumstances covered by rule 91(2)(d) and (e).[4] These are serious ill-health, when life expectancy is anticipated at less than one year, or where the pension is a trivial amount.[5]

387. Payment of a pension once commenced continues for the life of the recipient. Rule 91(2)(f) guarantees payments of pension for a minimum period of five years. In the event of the death of the pension sharing credit member within five years of pension commencing, payments to the surviving partner, dependent children or personal representatives would continue until the end of that period.

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1 S.I. 2000/1054
2 S.I. 2000/1055 for "safeguarded rights" as provided for by section 68 of the 1993 Act
3 Section 101C of the 1993 Act as inserted by section 37 of the 1999 Act
4 Section 101C of the 1993 Act and Regulations 3 and 4, S.I. 2000/1054
5 Trivial amount for these purposes currently specified in Part 1 of Schedule 29 to the Finance Act 2004 (c.12) as 1% of the standard lifetime allowance (currently £1.6 million)

388. If the pension credit member dies before pension commences, rule 91(2)(g) entitles their surviving partner, dependent children or personal representatives to receive a lump-sum payment. The amount payable is based on a 25% proportion of the value of the pension that the pension credit member would have been entitled to. ’

389. Rule 91(3) requires that benefits as a pension credit member are separate to any other benefits under the scheme. Rule 91(3) prevents benefits being combined and would only apply in the event that a pension credit member is also entitled to benefits as a scheme member due to their own service as an MSP or office-holder.

390. Rule 91(4) also applies when a person entitled to benefit as a pension credit member also has a separate entitlement to scheme benefits due to their own service. In the event that those separate scheme benefits are discharged by either payment of a trivial lump sum or a refund of contributions, the pension sharing benefits remain unaffected.