SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 3 transitional Provisions and Savings

Paragraph 14: 5 year guarantee

527. Part L of Schedule 1 of the Act provides a guarantee that a scheme pension once commenced will be paid for a minimum of 5 years. Where the pensioner dies within that 5 year period and the balance is paid as a lump sum to personal representatives because there is no surviving partner, such a benefit is termed under the Finance Act 2004 as a "defined benefits lump sum death benefit" and can only be paid as a lump sum in respect of scheme pensioners who die under age 75. Rule 71 makes provision for pensioners who die within that guaranteed period aged over 75 years leaving no surviving partner by making provision for pension payments to continue for the remainder of the guarantee period, payable to the deceased's personal representatives.

528. Paragraph 14 preserves the rights of certain pensioner members aged over 75 years as provided by M4 of the 1999 scheme rules to have paid to their personal representatives a lump sum equivalent to the balance of pension due under the 5 year guarantee period, instead of continuing pension payments. Schedule 36 to the Finance Act 2004 contains transitional provision about lump sum death benefits for existing pension scheme members at 5 April 2006. Paragraph 36 of that Schedule permits such members of a registered pension scheme aged over 75 to retain the same rights as younger pensioners to a lump sum death benefit if the member dies within the guarantee period.

529. Under paragraph 14, the Fund trustees are able to pay a lump sum where the former scheme member dies aged 75 or over with no surviving partner, provided the criteria specified in subparagraph (2) is met. The deceased must have been participating in the scheme before new rules day, and the lump sum must be a defined benefits lump sum death benefit permitted under paragraph 36 of Schedule 36 to the Finance Act 2004.