

# SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 3 transitional Provisions and Savings*

#### *Paragraph 21: Presiding Officer and First Minister pension scheme*

556. Part S of the 1999 pensions order established a separate pension scheme for holders of the office of First Minister or Presiding Officer. This scheme is unfunded in that payments are charged on and paid out of the Scottish Consolidated Fund, as opposed to the funded scheme (for which the Pension Fund was established by article B1 of the 1999 pensions order). The First Minister and Presiding Officer scheme is not a tax-registered scheme in terms of section 150(2) of the Finance Act 2004 and therefore, the rules for tax-registered schemes and consequent tax treatment do not apply to it (as an unregistered scheme the benefits paid under it are subject to income tax and other taxes).
557. Under the First Minister and Presiding Officer pension scheme both the First Minister and Presiding Officer are entitled to an annual pension equivalent to 50% of their office-holder salary payable from the day after ceasing to hold office, irrespective of their length of service in the post or their age. There is also provision for a pension for surviving widows, civil partners and children or any person entitled to benefits (with any pension payable based on the relevant office-holder pension entitlement).
558. [Paragraph 21\(1\)](#) specifies that the rules in the 1999 pensions order covering First Ministers and Presiding Officers will continue in respect of any individual who holds or has held those offices on the new rules day, i.e. those already entitled to or receiving that pension. This applies also in respect of any surviving spouses, civil partners or children relating to that individual. Corresponding transitional provision is made in [paragraph 3 of Schedule 3](#) to exclude individuals entitled under this paragraph from also being office-holder members in the funded scheme.
559. In respect of those entitled to receive benefits, the First Minister and Presiding Officer pension scheme will continue to operate as established under the 1999 pensions order. Section 1 of the Act transfers to the Fund trustees all functions, rights, liabilities and obligations in respect of the “Scottish Parliamentary Contributory Pension Fund” only and Schedule 1 sets out the rules of the “Scottish Parliamentary Pension Scheme” which excludes the First Minister and Presiding Officer pension scheme (see section 4). Therefore, the Fund trustees will have no duties in relation to the First Minister and Presiding Officer pension scheme. [Paragraph \(2\)](#) makes clear that the SPCB continues as managers of this scheme and that they determine any pension sharing benefits conferred on any individual as a result of the scheme. [Paragraph \(3\)](#) specifies that any reductions to benefits as a result of pension sharing orders are to be ignored when calculating the pension entitled of dependants.

*These notes relate to the Scottish Parliamentary Pensions Act  
2009 (asp 1) which received Royal Assent on 25 February 2009*

560. [Section 3](#) allows modification of the First Minister and Presiding Officer pension scheme by resolution of the Parliament.